

ON-LINE ELDER LAW RESEARCH TOOLS AND MORE MEDICAID BASICS

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To help you learn some elder law while familiarizing yourself with our resources, I've devised some short research problems. See me if you have problems accessing these materials or following my directions. If I'm busy, just move on to the next problem. Please type up and turn in only the questions that are **highlighted** (in the version on your computer) and your answers, by the date you've been given. Thanks!

I. ELDER LAW ON LEXIS/MATTHEW BENDER

One of the legal resources that **Lexis** provides is **Matthew Bender**, which has an Elder Law section. I hope you will use this during the semester. To access this resource:

- Log on to Lexis
- Go to the **Search** function
- Go to **“Look for a Source”**
- Scroll down, and find the folder **“Secondary Legal”**
- Click on **Matthew Bender**
- Click on **By Area of Law**
- Click on **Elder Law**

We will start by looking at **“Injuries and Disorders of the Elderly,”** so scroll down the left side and find that topic, and then click on it.

You have been appointed by the court to serve as the attorney for a person alleged to be incompetent. You are referred to as the guardian ad litem. According to the guardianship petition, filed by the other side, your client is incompetent as a result of a **“cerebrovascular**

injury.” Wanting to learn more about this condition, you review the Elder Law resource and are relieved to find there’s actually a chapter on this very topic! **Chapter Six: Cerebrovascular Injury.** Click to the right side of the “+” **sign** to search within it.

- In the Introduction (§6.00), locate the definition of “ischemia” – a term you will encounter often in elder law cases [either read the intro or use the Find function (CTRL+F)].

1) How is ischemia defined, what does it lead to, and what are the most common types of this injury to the central nervous system?

- Scroll down until you find the section about the epidemiology of strokes.

2) What is the major cause of stroke?

3) How common are strokes in the U.S.?

Leave the Introduction, and click on “**Complications of Cerebrovascular Injury.**” Again, search (using the Find function) in this chapter for information on “memory deficit” and “memory deficits.”

4) How are strokes connected to memory deficits?

In chapter 14, “Long-Term Care,” please read the introductory paragraphs and answer these questions:

5) In 1900, what was the average life expectancy?

6) What was it in 1997?

7) How much longer can an 85 year old woman expect to live?

8) An 85 year old man?

Next, please read the section on “Paying for Extended Care.”

9) How does the annual cost of long-term care (LTC) compare to the cost of a university education?

You decide to head home for a holiday weekend, and your 79 year old grandmother asks you what you think an LTC policy would cost her.

10) How much would a basic policy cost?

To get to the next resource, you may need to click back on your browser to the “**Elder Law**” section of **Matthew Bender**, or **start all over in Lexis**. Let’s look in “**Tax, Estate and Financial Planning for the Elderly**” listed on the lower right side. (Not the one on Forms and Practice.) If you prefer using a hard copy, we also have the books for this resource – in 3 large black binders (on the far left shelf in our library).

Open **Chapter 16, Guardians and Conservators**. Open only this chapter by clicking on the box off to the left, again. Let’s learn about the use of guardianships:

11) What are the 2 types of guardianship, described in “The Nature and Use of Guardianships”?

12) Learning a term used in other states, what are **conservatorships** and when are they used?

13) What is the UGPPA?

II. USING THE BOOKMARKS (with some elder law lessons, too!)

Some of the internet bookmarks on the student PCs will be used often, and others are for your reading pleasure. In the North Carolina sites, find the bookmark for the Adult Medicaid Manual. Let's start there.

14) Looking at the first sections; **Definitions**, what do these stand for? (since you'll be using these later):

- **A/R** _____
- **CAP** _____
- **CMS** _____
- **CPI** _____
- **HIPAA** _____

Under federal law, some transfers (i.e., uncompensated gifts) of assets are penalized under the Medicaid rules, by causing a period of disqualification.

15) In N.C., what manual section has the transfer of asset rules? MA-_____*

*Hint: you can either scroll down the Table of Contents (the opening page) or use the Index feature. The Index button is found along the top line, towards the right.

In N.C., the basic rule is that the a/r's (applicant/recipient – your client!) equity in the transferred property is divided by \$5,000. (If you don't know the difference between value and equity, please let me know.) This figure has been used for a couple of years, and will probably go up in the next few years. The State has calculated that **this figure represents the average cost of nursing home care, per month, in this state**. (In reality, folks who private pay for care pay a higher rate, generally.) So, for every \$5,000 given away, the person is disqualified for a month – unless the transfer is an allowed transfer (which we'll cover later).

16) Let's see how this number compares with the "divisor" used in other states. Going to the website of an elder law attorney in NYC, check out www.seniorlaw.com/medicaid.htm.¹ Scroll down to "Transfer of Assets Rules." **What is the range of the divisors used in New York state?**

17) N.C. Medicaid Special Assistance Program – "S.A."

Mr. Hopewell has been living in his home, alone. However, due to a stroke he needs some help with his activities of daily living (ADLs), like bathing and getting around ("ambulation").² He would prefer not to have to sell his home.

Your client wants to stay in an assisted living facility, like Brighton Gardens over at the corner of Polo and Reynolda Roads.³ Mr. Hopewell has heard that the Medicaid Special Assistance program, or "S.A.", will pay for care if he meets eligibility criteria. Check the S.A. Manual (found only on-line): <http://info.dhhs.state.nc.us/olm/manuals/doa/sa/man/index.htm> . You've heard that folks can protect their homes if they have the "intent to return home." **But what if returning home is unrealistic for Mr. Hopewell and simply not feasible, given his health?** Check SA-3200 (V)(A): <http://info.dhhs.state.nc.us/olm/manuals/doa/sa/man/SA3200-04.htm#TopOfPage>

Lastly, Mr. Hopewell has a lot of questions about his Medicare supplement health insurance paperwork, but cannot afford to hire you to figure out what's being covered. So....

18) **What help can he get from the Seniors Health Insurance Information Program (SHIIP), <http://www.ncshiip.com/Consumer/SHIIP/SHIIP.asp> ?**

¹ This exercise is also to give you an idea of how lawyers use the web to develop clientele and referral sources. Other examples include:

- In Florida: <http://www.osterhoutmckinney.com/julie.htm>
- In New Jersey: <http://www.begleylawyer.com/>
- In Arizona: <http://www.elder-law.com>

² Note that he does not need nursing home level care, which SA wouldn't pay for anyway. Regular Medicaid does pay for nursing home level care, for eligible people.

³ <http://www.sunriseseniorliving.com/services/AssistedLiving.do>

- 19) Lastly, please look at the federal government sites for the [Eldercare Locator](#). Print out the resources list for the community where one of your grandparents lives, and attach it to your memo. You might even want to send them a copy!

Nice work! I hope you found this informative.