

## Sample Exam Questions – Elder Law

**10 MULTIPLE CHOICE**  
**1 SHORT ESSAY**

**NOTE:** These questions are provided only as a helpful guide to Applicants. They should not be overly relied upon and are not a substitute for self-study and experience. The Board Certification Committee annually reviews, updates, and creates actual examination questions in an effort to ensure that the examination accurately tests those areas embraced by Elder Law.

**Good luck on the exam.**

1. George resides in a Florida nursing home and is applying for ICP benefits. In a valid divorce decree, George is required to pay (and is paying) \$150 per month alimony and \$300 per month child support for 2 minor children. What portion of these payments will be deductible from his income under current ICP Medicaid rules when calculating his patient responsibility?
  - (a) \$0. None of the alimony and child support is deductible from George's income.
  - (b) \$225. One-half of alimony and one-half of child support is deductible from George's income.
  - (c) \$100. None of the alimony and one-third of the child support is deductible from George's income.
  - (d) \$450. Both the alimony and child support are deductible from George's income.

**Answer: (a)**

2. Alice is the guardian of her father, who lives in the adjacent county. She wants to move him to the county where she lives. Which of the following is **CORRECT?**

- (a) Alice may not move her father without prior court approval.
- (b) Alice must notify the court having jurisdiction of the guardianship within 90 days after relocation.
- (c) Alice must notify the court and provide compelling reasons for the move and how long she expects her father to stay at the location.
- (d) Alice must notify the court having jurisdiction of the guardianship 15 days prior to relocation.

**Answer: (c)**

3. Under the Florida Statutes, the authority of an emergency temporary guardian expires when a guardian is appointed or:

- (a) 15 days after appointment.
- (b) 30 days after appointment.
- (c) 60 days after appointment.
- (d) 90 days after appointment.

**Answer: (d)**

4. Which of the following is **NOT** required to receive low income pension, housebound, or aid and attendance through the Veterans Administration?
- (a) Veteran must have served at least 90 days of active service, one of which must have been during a war-time period.
  - (b) Veteran must have received discharge other than dishonorable.
  - (c) Claimant must have limited income and assets available.
  - (d) Claimant must have documented service connected disability.

**Answer: (d)**

5. The Americans with Disabilities Act (ADA) applies to companies engaged in an industry affecting commerce that have:
- (a) 25 or more employees.
  - (b) 20 or more employees.
  - (c) 15 or more employees.
  - (d) 10 or more employees.

**Answer: (c)**

6. A proceeding for expedited judicial intervention concerning medical treatment procedures requires notice and:
- (a) A preliminary hearing within 48 hours after filing the petition.
  - (b) A preliminary hearing within 5 days after filing the petition.
  - (c) A preliminary hearing within 72 hours after filing the petition.
  - (d) An evidentiary hearing within 4 days after filing of the petition.

**Answer: (c)**

7. Under Federal Law, residents of skilled nursing facilities that receive Medicare and Medicaid benefits are guaranteed which of the following rights:
- (a) The right to access to the resident's medical records within 5 days' not including weekends and holidays.
  - (b) The right to be informed in writing and orally about how to receive refunds due as a result of Medicaid payments when eligibility has been determined retroactively.
  - (c) The right to be informed in writing only at the time transfer to a hospital of the facilities bed hold policy.
  - (d) The right to a civil cause of action for any violation of the resident rights by the facility.

**Answer: (c)**

8. In a probate formal administration the Notice to Creditors was first published on January 15<sup>th</sup>. Notices were sent to all known creditors by January 30<sup>th</sup>. A potential creditor was discovered on March 15<sup>th</sup>. That creditor was served notice on April 1<sup>st</sup>. The last day the creditor can file a claim is:
- (a) April 15<sup>th</sup>
  - (b) May 1<sup>st</sup>
  - (c) July 1<sup>st</sup>
  - (d) May 15<sup>th</sup>

***Answer: (b)***

9. Which of the following is a **CORRECT** statement of the United States Supreme Court's position on a patient's right to refuse life-saving nutrition and hydration.
- (a) There is a legal distinction between artificially supplied nutrition and hydration and other forms of medical treatment, and States may restrict the patients' right to remove nutrition and hydration.
  - (b) There is a legal distinction between artificially supplied nutrition and hydration and other forms of medical treatment and a patient has a constitutional right to refuse to accept or refuse nutrition or hydration, however this right cannot be exercised by a surrogate or proxy acting for the person.
  - (c) The United States Constitution grants a competent person a constitutionally protected right to refuse or accept nutrition or hydration.
  - (d) The patient's right to accept or remove life-saving nutrition and hydration is governed solely by state statutes dealing with healthcare decision-making and authority of the proxy or surrogate.

**Answer: (c)**

10. When must a surviving spouse make an election to take an undivided one-half interest in the homestead as a tenant in common.
- (a) Within 4 months after the issuance of letter of administration.
  - (b) Within 6 months after the decedent's death and during the surviving spouse's lifetime.
  - (c) Within 90 days of the issuance of letters of administration.
  - (d) Upon the expiration of 5 months from the granting of letters.

**Answer (b)**

### **SHORT ESSAY**

Jack has a traditional IRA with \$100,000. Jack is age 60 and heard he needs to pull money out of his IRA but he is still employed and does not want to pull money out until he is absolutely required to do so.

- 1. When must Jack begin to make withdrawals?**
- 2. What distribution rules would apply if instead Jack is not the owner of the IRA but rather he is the designated beneficiary of the IRA, which was inherited from his aunt Mable who died last month at the age of 69?**
- 3. What difference, if any, does it make if Mable was age 80 when she died and left Jack the IRA instead of age 69?**

## Model Answer

A- IRS Publication 590 (2013)

- a. When must Jack begin to make withdrawals? Jack must begin to make withdrawals ("required minimum distributions") by April of the year following the year in which Jack attains age 70 and K This is Jack's "required beginning date". Thereafter, Jack will need to make annual withdrawals by December 31 of each year.
  
- b. What distribution rules would apply if instead Jack is not the owner of being inherited from his aunt Mable who died last month at the age of 69? Mable died before her required beginning date because she was not yet age 70 and Yz As the designated beneficiary, Jack must base his required minimum distributions for years after the year of Mable's death using his own life expectancy (not Mable's life expectancy).
  
- c. What difference does it make if Mable was age 80 when she died and left Jack the IRA instead of age 69? Mable would have then died after her required beginning date so Jack must base his required minimum distributions for years after the year of Mable's death on the longer of (i) his single life expectancy, or (ii) Mable's life expectancy. As Jack is younger, his life expectancy would be longer than Mable's so he would use his life expectancy to calculate his required minimum distributions.