



ELDER LAW CERTIFICATION EXAMINATION SPECIFICATIONS



1. Purpose of Examination

The Elder Law Certification Examination consists of a combination of essay and multiple choice questions. It is intended to test whether an applicant possesses the knowledge, skills, abilities, ethics, and judgments that are common to specialists in Elder law and is also intended to be a valid and reliable measurement to justify the representation of special competence and professionalism that distinguishes a “Florida Bar Board Certified Lawyer.”

2. Examination Content

A. Core Areas include content knowledge expected of all examinees.

1. Health and Personal Care Planning
2. Pre-Mortem Legal Planning
3. Fiduciary Representation
4. Legal Capacity Counseling
5. Public Benefits Advice
6. Probate and Trust Administration

B. Content subareas may be included for particular practice specializations.

1. Insurance
2. Resident Rights Advocacy
3. Housing Counseling
4. Employment and Retirement
5. Income, Estate, and Gift Tax
6. Torts Against Nursing Homes
7. Age/Disability Discrimination
8. Litigation and Administrative Advocacy

Topics that may be covered on the elder law examination include:

A. Health and Personal Care Planning

Counseling older persons, attorneys-in-fact, and families regarding and preparing advance medical directives:

1. Health care surrogate designations
2. Medical powers of attorney
3. Living wills
4. Health care declarations
5. Medical and life-sustaining choices
6. End of life decisions

B. Pre-Mortem Legal Planning

Giving advice and preparing documents:

1. Wills
2. Trusts, including Special Needs Trust
3. Probate avoidance techniques
4. Powers of attorney
5. Real estate
6. Gifting
7. Financial and tax implications of any proposed action
8. Income, estate, and gift tax

C. Fiduciary Representation

Seeking the appointment of, giving advice to, representing, or serving as:

1. Executor
2. Guardian
3. Conservator
4. Attorney-in-fact
5. Representative payee
6. Curator
7. Personal representative
8. Trustee

D. Legal Capacity Counseling

1. Advising how capacity is determined and the level of capacity required for various legal activities
2. Representing those who are or may be subject to guardianship/conservatorship proceedings or other protective agreements
3. Roles of various parties to proceedings
4. Procedures
5. Ethics
6. Conflict Issues

E. Public Benefits Advice

Planning for and assisting in obtaining:

1. Medicaid Programs
2. Social Security Disability
3. Supplemental Security Income
4. Veterans' Benefits

F. Insurance

Advice on Insurance matters, including analyzing and explaining the types of insurance available, such as:

1. Health
2. Life
3. Long-term care
4. Home care
5. COBRA
6. Medicare and Medigap
7. Disability Short and Long Term
8. Burial/funeral policies

G. Resident Rights Advocacy

Advising patients and residents of hospitals, nursing facilities, continuing care facilities and those cared for in their homes of their rights and appropriate remedies in matters such as:

1. Resident's rights
2. Admission
3. Transfer and discharge policies
4. Quality of care

5. Contractual issues
6. Related issues

H. Housing

Counseling, including reviewing available options and the financing of those options such as:

1. Residential choices
2. Level of care
3. Mortgage alternatives
4. Renovation loan programs
5. Life care contracts
6. Home equity conversion/Reverse Mortgage

I. Employment, Retirement and Survivor Benefits

Advice on:

1. Pensions
2. Retiree health benefits
3. Unemployment benefits
4. Veteran's Benefits
5. IRAs
6. 401Ks
7. Other benefits

J. Probate and Trust Administration

Income, estate, and gift tax advice, including consequences of plans made and advice offered.

1. Procedures
2. Testate and Intestate
3. Elective share
4. Homestead

K. Age/Disability Discrimination

Counseling with regard to age and/or disability discrimination in employment and housing.

L. Litigation and Administrative Advocacy

In connection with any of the above matters, including:

1. Will and trust contests
2. Contested capacity issues
3. Elder abuse (including financial and consumer fraud)
4. Fiduciary administration
5. Public benefits
6. Nursing home torts
7. Discrimination
8. Health care and end of life decisions

NOTE: State and Federal Law

The focus of this exam will be on state law, or state implementation of federal law. If no state law exists, the focus will then be on Federal Law (ex. Medicare).

Examinees will be tested on law that was in effect as of December 31 of the year prior to the day that the exam is administered.