

HONORS
ELDER LAW
PROFESSOR DAVID A. BERKOVITZ

COURSE OUTLINE

Preparation for old age should begin not later than one's teens. A life which is empty of purpose until 65 will not suddenly become filled on retirement. --Arthur E. Morgan "*Mr. Morgan is correct.*" David A. Berkovitz.

Semester: Fall 2020
Professor: David A. Berkovitz
Course: Elder Law
Day and Time: Monday and Wednesday 1:00 p.m. - 2:15 p.m.

Office Location: Beckman Hall Office No. 308C
Office Phone: (714) 516-5288
Email Address: berkovit@chapman.edu

Office Hours: Monday & Wednesday 12:00 p.m. - 1:00 p.m., 5:30 p.m. - 7:00 p.m. by appointment via Zoom conference. If my office hours are not convenient for you we can schedule a Zoom conference during other days and times. When making an appointment e-mail, me 2 or 3 times and dates when you are available and I will try to schedule you for one of those suggested times. And you can e-mail me anytime with comments or questions.

Classroom: If we return to campus, Beckman Hall 208

Catalog Description: Prerequisite: acceptance to the University Honors Program, or consent of instructor and Honors Director. Elder Law concerns legal issues involving the rights and needs of older people. Finance and healthcare matters are central in the study of elder law but any issue which impacts an elder's quality of life is included. In this course students will study the various issues and laws which confront the elderly. (Offered as needed) 3 credits.

Course Objectives: Elder Law is an introductory course in law for undergraduates who desire to learn about the legal issues of the elderly and the laws governing these issues. The focus of the course will be the legal issues and laws confronting the elderly with a consideration of the social and financial concerns underlying these issues and laws. Emphasis is given to how the law provides for the financial and health care challenges of the elderly. Students should acquire a fundamental understanding of elder law topics including wills, trusts, advance care directives, estate planning, capacity, elder abuse, medical decision making and age discrimination in employment.

Text: *The Curious Case of Benjamin Button, F. Scott Fitzgerald,*
ISBN-13:978-1505644265

Study Guides: Handouts and assignments will be posted on Canvas.

Major Study Units:

Estate Planning	Legal and Ethical Responsibilities to
Wills	Elders
Trusts	Elder Abuse
Powers of Attorney	Age Discrimination
Advanced Health Care Directives	Americans with Disabilities Act
Probate Administration	Capacity
Trust Administration	Remarriage
Reverse Mortgages	
Health Care	
Medicare	
Medicaid	
Hospice	
Social Security	
End-of-life decisions	

GRADING

Composition of Grade Scores:

Participation & Assignments:	40%
First Research Paper:	30%
Second Research Paper & Presentation:	30%

Grades: Grading is determined by the distribution of total points at the end of the course and is based on the following scale: 93% + A, 90-92.99% A-, 87-89.99% B+, 83-86.99% B, 80-82.99% B-, 77-79.99% C+, 73-76.99% C, 70-72.99% C-, 67-69.99% D+, 63-66.99% D, 60-62.99% D-, 0-59.99% F.

Extra Credit: No extra credit is available for this class.

Participation: Participation is more than showing up to class. The quality (not quantity) of your contributions to classroom discussions are an integral part of the course. Participation also includes active listening, showing respect to classmates and being punctual.

Class Rules: Attendance will be taken during each class session. You should arrive or log in on time and stay until class is dismissed. Attendance will be taken during each class session.

Chapman University’s Academic Integrity Policy:

“Chapman University is a community of scholars that emphasizes the mutual responsibility of all members to seek knowledge honestly and in good faith. Students are responsible for doing their own work and academic dishonesty of any kind will be subject to sanction by the instructor/administrator and referral to the university Academic Integrity Committee, which may impose additional sanctions including expulsion. Please see the full description of Chapman University’s policy on Academic Integrity at www.chapman.edu/academics/academic-integrity/index.aspx.”

Chapman University’s Students with Disabilities Policy

“In compliance with ADA guidelines, students who have any condition, either permanent or temporary, that might affect their ability to perform in this class are encouraged to contact the Disability Services Office. If you will need to utilize your approved accommodations in this class, please follow the proper notification procedure for informing your professor(s). This notification process must occur more than a week before any accommodation can be utilized. Please contact Disability Services at (714) 516-4520 or visit www.chapman.edu/students/student-health-services/disability-services if you have questions regarding this procedure or for information or to make an appointment to discuss and/or request potential accommodations based on documentation of your disability. Once formal approval of your need for an accommodation has been granted, you are encouraged to talk with your professor(s) about your accommodation options. The granting of any accommodation will not be retroactive and cannot jeopardize the academic standards or integrity of the course.”

Chapman University’s Equality and Diversity Policy

“Chapman University is committed to ensuring equality and valuing diversity. Students and professors are reminded to show respect at all times as outlined in Chapman’s Harassment and Discrimination Policy. Please see the full description of this policy at <http://www.chapman.edu/faculty-staff/human-resources/eoo.aspx>. Any violations of this policy should be discussed with the professor, the Dean of Students and/or otherwise reported in accordance with this policy.”

Canvas: Canvas will be used for this course and you are expected to be aware of any information posted at the course Canvas site. Accordingly, please confirm that you are connected to the Canvas site.

Class Format

The course will be taught in a synchronous (meaning at the same time), online format on Mondays and Wednesdays. This means you will need to participate during the regular class time on both dates but will do so remotely. If you have any questions about this format, please e-mail me at berkovit@chapman.edu.

Technology Requirements

Because of the online nature of this course, you are required to have access to a reliable computer with a Webcam, microphone, and a stable internet connection. Zoom online video conferencing will be used for all class sessions including during all exams.

Assistance is Available

Please reach out to me to discuss any aspect of the course (or anything else) particularly anything that may be interfering with your learning. Although I hope you find the course challenging that challenge is valuable only if you have the opportunity and tools to meet the challenge. Please know I will do everything I can to provide you the opportunity and tools to succeed in the course.

Legal Advice

The instructor is prohibited from providing legal advice or legal services to any student. This prohibition should not prevent you from asking questions concerning the subjects covered during the course.

Student Support at Chapman University

Over the course of the semester, you may experience a range of challenges that interfere with your learning, such as problems with friends, family, and/or significant other relationships; substance use; concerns about personal adequacy; feeling overwhelmed; or feeling sad or anxious without knowing why. These mental health concerns or stressful events may diminish your academic performance and/or reduce your ability to participate in daily activities. You can learn more about the resources available through Chapman University's Student Psychological Counseling Services

here: <https://www.chapman.edu/students/health-and-safety/psychological-counseling/>.

Fostering a community of care that supports the success of students is essential to the values of Chapman University. Occasionally, you may come across a student whose personal behavior concerns or worries you, either for the student's well-being or yours. In these instances, you are encouraged to contact the Chapman University Student Concern Intervention Team who can respond to these concerns and offer assistance:

<https://www.chapman.edu/students/health-and-safety/student-concern/index.aspx>. While it is preferred that you include your contact information so this team can follow up with you, you can submit a report anonymously. 24-hour emergency help is also available through Public Safety at 714-997-6763.

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Recording of Class

In this class, software will be used to record live class discussions. As a student in this class, your participation in live class discussions will be recorded to assist those who cannot attend the live session, or to serve as a resource for those who would like to review content that was presented. These recordings will be made available only to students who are enrolled in the class, and only during the period in which the course is offered. All recordings will become unavailable to students in the class shortly after the course ends. Students who prefer to participate via audio only will be allowed to disable their video camera so only audio will be captured. If you have any questions or concerns regarding this option, please reach out to me to discuss.

Safety Protocols for on campus instruction

In response to the current COVID-19 pandemic, Chapman University has developed the CU Safety Back program (CUSBP) and mandatory safety measures (<https://news.chapman.edu/coronavirus/>). The University's mandatory safety measures may be stricter than local, state or federal guidelines and may be subject to change at any time. Students are expected to adhere to the University's safety measures while attending classes, including when entering and exiting classrooms, laboratories, or other instructional areas. Safety precautions and procedures may change in response to emerging findings and the recommendations of scientific experts and authorities. Refusal to abide by the University's mandatory safety measures or to the safety requirements specific to this course will result in your being asked to leave the area immediately, and may result in an administrative dismissal from this course. The COVID-19 pandemic requires all of us to accept the possibility that changes in how this course is taught may be required and that some changes may occur with little or no notice. If this occurs, you will be given clear instructions as to how to proceed. The uncertainty of the situation is not ideal for any of us. We must all try to approach this situation with good-will, flexibility, and mutual understanding.

ASSIGNMENT LIST

WEEK

TOPIC

1. 08/31/20

Death and Dying

1. Washington v. Glucksberg 521 U.S 702 (1997)
2. Oregon Request for Medication
3. "How to Write a Eulogy" at <https://www.funeralguide.co.uk/help-resources/arranging-a-funeral/planning-the-service/how-to-write-a-eulogy>

4. View “What Really Matters at the End of Life” Dr. BJ Miller Ted Talk at:
https://www.ted.com/talks/bj_miller_what_really_matters_at_the_end_of_life?language=en
5. Examples of eulogies
6. *The funeral as we know it is becoming a relic.*

2. 09/07/20

Aging and the aging process

1. Visit & explore the website “Growing Old in Three Minutes” at
<https://news21.com/columbia/2011/2010/growing-old-in-three-minutes.html>
2. Watch “Living Old” at:
<https://.pbs.org/wgbh/frontline/film/livingold>
3. Read: Pages 1 through 9 at “On Death and Dying: Counseling the Terminally Ill Client and the Loved Ones Left Behind” by Georgia Akers located at:
https://ttu-ir.tdl.org/bitstream/handle/2346/73258/06_1ES-1.PDF?sequence=1&isAllowed=y
4. *Dying at 75.*

3. 09/14/20

Conservatorships and Guardianships; Capacity

1. “Handbook for Conservators” at
<http://www.courts.ca.gov/documents/handbook.pdf>
2. *The Curious Case of Benjamin Button*

4. 09/21/20

Long Term Care; Hospice; Nursing Homes; Assisted Living

5. 09/28/20

Medicare & Medicaid

1. <https://www.medicare.gov/pubs/pdf/10050-Medicare-and-You.pdf>

6. 10/05/20

Supplemental Security Income;

7. 10/12/20

Wills & Trusts; Probate & Trust Administration

https://www.americanbar.org/groups/real_property_trust_estate/resources/estate_planning/guidelines_for_individual_executors_trustees/

First Research Paper due 10/22/20

8. 10/19/20 Surrogate Decision Making
 1. Advance Directives
 2. Durable Powers of Attorney

9. 10/26/20 Income in Old Age; Social Security
 1. Eligibility
 2. Amounts
 3. Private Pensions

10. 11/02/20 Elder Abuse & Neglect

11. 11/09/20 Age Discrimination in Employment; ADA

12. 11/16/20 Joint Ownership of Property; Reverse Mortgages; Wealth Management

13. 11/23/20 Grandparenting; Grandparents Rights; Pretermitted & Disgruntled Heirs

14. 11/30/20 Thanksgiving Break

15. 12/07/20 Driving; Remarriage; 2nd Research Paper and Presentation due (12/05/20)

16. 12/14/20 2nd Research Paper and Presentation (12/12/20; 1:30 p.m. - 4:00 p.m.)