



## So, You Want to Be an Elder Law Attorney? Resources to Jumpstart Your Elder Law Practice

Do you like people? Do you have a social worker's soul and a nurse's curiosity? Do you want to find meaning, purpose and fulfillment in your work? Are you passionate about helping people? If so, then elder law may be the niche practice for you.

*The need for elder law specialists will continue to grow as more baby-boomers reach retirement age.*

Elder law has been consistently ranked in the top 10 growing practice areas.<sup>1</sup> “The population of Americans who are getting older and living longer is growing significantly. The U.S. Census projects that by 2030, more than 20 percent of the population will be 65 years and over. As the demographics shift, the specialization of Elder Law is becoming more in need. Elder Law plays a critical role in advocating and protecting the rights and wellbeing of older adults, many of whom have complicated medical issues. This area of law may also interact with Healthcare and Family Law as it involves such areas as medical care, insurance, wills, end of life, trusts, guardianship, etc.”<sup>2</sup> Obviously, the need for elder law specialists will continue to grow as more baby-boomers reach retirement age.

In light of these trends, many attorneys are attracted to the meat and potatoes of elder law — estate planning, probate and conservatorship — but few pursue the more complex areas of public benefits, health care advocacy, special needs trusts and more. In Tennessee, there are only 14 attorneys who have been certified as Specialists in Elder Law. Achieving certification increases your knowledge, confidence and marketability. Although the Tennessee Commission on Continuing Legal Education no longer certifies attorneys as specialists, it does keep a roll of specialists. The Commission requires annual proof that those attorneys are certified as

specialists by entities accredited by the American Bar Association. The ABA has accredited the National Elder Law Foundation ([www.nelf.org](http://www.nelf.org)) as the certifying entity for elder law attorneys.

Achieving certification is not an easy path, but it is well worth the considerable effort. The requirements to be certified are on the National Elder Law Foundation's website. An attorney certified by NELF must meet rigorous practice requirements and pass a written examination. I found the exam to be more difficult than the bar exam. The pass rate has dipped as low as 14 percent, but in 2016, the pass rate rose to 33 percent.<sup>3</sup> The National Academy of Elder Law Attorneys (NAELA) now offers a CELA Prep Advanced Study Kit.

The journey to become an expert in elder law begins with (gasp!) reading the law. It is a huge body of law, and it is difficult to know where to begin. I found the most time- and cost-efficient method was to start with a treatise. I recommend building your elder law library with *Elder Law in Tennessee* by Timothy Takacs,<sup>4</sup> and *Representing the Elderly Client* by Thomas Begley Jr. and Jo-Anne H. Jeffreys.

Staying up-to-date on elder law requires an ongoing commitment to reading various newsletters and websites. If you belong to the Tennessee Bar Association, you are on the right track. Start your day with *TBA Today*. This excellent e-newsletter contains summaries of recent Tennessee appellate decisions.

Join the TBA's Elder Law section and

register for the listserv. Attend the annual TBA Elder Law Forum held in July. This is a great opportunity not only to learn elder law, but also to hear the latest news about TennCare policy from experienced elder law attorneys. I recommend signing up for the TBA's mentor program ([www.tba.org/programs/the-tba-mentoring-program](http://www.tba.org/programs/the-tba-mentoring-program)).

In 1988, elder law attorneys joined together and formed the National Academy of Elder Law Attorneys (NAELA). This organization offers many educational opportunities, including seminars, webinars, articles and listservs. Several excellent publications that are complimentary for members include the weekly *e-Bulletin*, bimonthly *NAELA News*, and the biannual *NAELA Journal*. Two publications are offered as a free public service: *Eye on Elder and Special Needs* and the *Advocacy Update* (at [www.naela.org](http://www.naela.org)).

The American Bar Association's Commission on Law and Aging produces publications, often free to download, to assist elder law attorneys. I have enjoyed *Bifocal*, the ABA Commission's free bimonthly journal that pertains to older adults. Go to [www.americanbar.org/groups/law\\_aging/publications.html](http://www.americanbar.org/groups/law_aging/publications.html), and check out the ABA's free and inexpensive resources.

The folks at the Center for Medicare Advocacy do an amazing job of educating advocates and consumers. Sign up for their weekly newsletter and peruse their website for appeal guides and forms at [www.medicareadvocacy.org](http://www.medicareadvocacy.org). Justice in Aging, formerly the Senior Citizens Law Center, has great resources for advocates, including an easy-to-read booklet I keep on my desk: *20 Common Nursing Home Problems and How to Resolve Them*. This booklet was written by Eric Carlson, an expert on the rights of nursing home residents afforded under the 1987 Nursing Home Reform Act, as amended in 2004.

Closer to home, the Tennessee Justice Center (TJC) is a nonprofit law firm that has served vulnerable families since 1995. According to its website, the TJC "has used the law to advocate for the voiceless,

hold government accountable and improve health and financial security for hundreds of thousands of families in every part of our state." TJC's groundbreaking cases are a must-read for the Tennessee elder law attorney. This is a list of a few of those cases:

- *Wilson v Gordon*, which allows Tennesseans whose TennCare health insurance applications are delayed (some for many months) the right to appeal.

- *Binta B v Gordon* (formerly *Grier v Goetz*), which secured appeal rights for individuals whose TennCare HMOs denied services ordered by their doctors.

- *John B v Emkes*, which improved health care for more than 750,000 Tennessee children by ensuring they had access to all medically necessary services ordered by their doctor.

- *Rosen v Goetz*, which ensured that Tennesseans were granted notice and appeal rights when the State sought to terminate their TennCare eligibility.


- *Newberry v Goetz*, which ensured people with disabilities and seniors have access to comparable services at home rather than a nursing home.

You may review these cases, obtain TennCare training, forms and other guidance by visiting the TJC website at [www.tnjustice.org](http://www.tnjustice.org).

There are countless government websites. For a Tennessee elder law attorney, TennCare's website is the go-to resource: [www.tn.gov/tenncare](http://www.tn.gov/tenncare). I recommend reviewing all the links. Pay particular attention to "Policy and Guidelines," which has links to TennCare Eligibility Policy Manuals, regulations and other important information. The manuals are intended as a guide to advocates, consumers and TennCare employees. It is often cited by elder law attorneys in appeals. In addition, there is a link to a listserv that provides updates to the manuals.

On a federal level, there is an abundance of helpful websites for elder law

attorneys. As I write this article, I have been repeatedly distracted as I discover more government websites related to elder law, sign up for news releases and like their Facebook pages. Whew! My top five choices are the websites for the Social Security Administration ([www.ssa.gov](http://www.ssa.gov)), Medicare ([www.medicare.gov](http://www.medicare.gov)), Medicaid ([www.medicaid.gov](http://www.medicaid.gov)), the Centers for Medicare and Medicaid Services ([www.cms.gov](http://www.cms.gov)), and the U.S. Department of Health and Human Services ([www.hhs.gov/aging/index.html](http://www.hhs.gov/aging/index.html)).

Tennessee needs more qualified elder law attorneys. It is a field in which governmental actors often misinterpret the law to the detriment of our most vulnerable citizens: older adults and individuals with disabilities. Elder law offers many opportunities for advocacy, education, and empowerment. While the challenges of becoming an elder law expert are many, the rewards are well worth the sacrifice of time and effort. 

---

**MONICA J. FRANKLIN** is a certified elder law specialist. She has assembled a multi-disciplinary team to serve east Tennessee's elderly and disabled clients through: Life Care Planning, Estate Planning and Conservatorships. Email: [Monica@MonicaFranklin.com](mailto:Monica@MonicaFranklin.com) or [www.MonicaFranklin.com](http://www.MonicaFranklin.com).

## Notes

1. "5 Fastest Growing Law Careers," *The Complete Lawyer*, May 18, 2017, <http://thecompletelawyer.com/5-fastest-growing-law-careers/>; Kaplan Test Prep, <https://www.kaptest.com/blog/law-school-insider/2016/01/29/experts-predict-growing-fields-for-law-students>.

2. "Top 10 Trending Legal Careers," *Huffington Post*, updated Dec. 6, 2017, [www.huffingtonpost.com/tamesha-keel/top-10-trending-legal-car\\_b\\_7070676.html](http://www.huffingtonpost.com/tamesha-keel/top-10-trending-legal-car_b_7070676.html).

3. "The CELA Exam: No Harder Than It Needs to Be," National Elder Law Foundation, June 1, 2016, [www.nelf.org/the-cela-exam-no-harder-than-it-needs-to-be](http://www.nelf.org/the-cela-exam-no-harder-than-it-needs-to-be).

4. Timothy Takacs has also written a nuts-and-bolts approach to starting an elder law practice, *Elder Law Practice in Tennessee*, Lexis Law Publishing, available on Amazon.