

# Heeding the Call: Response to National Survey on Elder Law Education

By Joy Solomon and Meredith Feinman

The Elder Law Journal of the University of Illinois College of Law recently published an article entitled “A Call to Action on Elder Law Education: An Assessment and Recommendations Based On a National Survey” (“the Survey”).<sup>1</sup> The authors surveyed approximately 270 elder law attorneys to determine “how to prepare lawyers for elder law practice and how to ensure that those currently practicing in the field have the training they need to provide high-quality legal services to the clients.”<sup>2</sup> They concluded that “elder law is a growth field”; that “there is a need for elder-law specific education” in law schools and continuing legal education programs; and that all law schools should offer clinical and doctrinal elder law courses to J.D. students.<sup>3</sup>



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The majority of the survey group indicated that their practices focused on what could be characterized as “practical” matters—advanced directives, Medicaid coverage, estate planning, Medicaid planning, guardianship and end-of-life issues. But, even though only slightly more than half the group dealt with elder abuse in their practices, elder abuse and ethics were the two subjects that practitioners most thought should be taught in CLE courses.<sup>4</sup>

It is this need for elder abuse training for prospective and current lawyers to which this article is addressed.

The statistics concerning elder abuse are terrifying: More than 1 in 10 Americans age 60 and above are the *known* victims of elder abuse, but the rate is much higher, as only 1 in 24 cases are reported.<sup>5</sup> Elder abuse is defined as:

- Physical, sexual or psychological abuse, as well as neglect, abandonment and financial exploitation of an older person,
- That occurs in any setting (home, community or facility),
- Either in a relationship where there is an expectation of trust and/or when an older person is targeted based on age or disability.<sup>6</sup>

Its economic and personal tolls are dramatic. According to the Elder Justice Roadmap Project (the “Project”) which was funded by the U.S. Departments of Justice and Health & Human Services, elder abuse costs “many billions of dollars a year”; it triples the risk of premature death, and the medical costs incident to abuse are in the billions.<sup>7</sup>



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The highest priority cited by the Project as critical to understanding and reducing elder abuse is awareness; elder law courses that devote significant time to teaching law students about elder abuse, and how to identify signs of elder abuse, will enhance aspiring attorneys’ awareness of this ever-growing problem among an ever-growing population—a population that they may be representing some day in contexts that might not ordinarily be seen as providing a window into the problem; for instance, during the course of estate planning for an elderly client, a properly trained attorney can ask questions that might reveal undue influence and emotional abuse. The key, of course, is training and, while more law schools are offering “elder law” curricula, courses that purport to teach skills that are necessary to represent individual clients in handling the issues of their daily lives must also teach students how to interview and screen elderly clients for any hint of abuse.

There was a time when domestic violence and child abuse were not part of legal curricula. Now, law schools have entire concentration areas with seminars and clinics devoted to those issues. We need to do the same for elder abuse, a problem that will grow, not diminish, as our population lives longer and depends on caretaking by others. Students are galvanized around domestic violence and child abuse issues—they are drawn to the pertinent courses and clinics based on their desire to help innocent victims. The time has come, and the opportunity exists, for law schools to convey to students that large numbers of the elderly population are also innocent victims. Students who are drawn to family law, criminal law, domestic law, children’s law and other “human interest” areas of law will be equally drawn to elder law and elder abuse if law schools help them understand that “elder law” need not only be about topics like Medicaid, estate planning,

and guardianship—topics to which law students often cannot personally relate. Students need to be taught that elder law also includes the area of elder abuse, which can be quite personal—possibly affecting their own or their friends’ older family members.

One of the striking findings of the Survey was that “the ability to help people” was cited as the most satisfying aspect of elder law for practitioners in that field. Raising the awareness of law students to the tragedy of elder abuse may well stimulate those who see law as an opportunity to help people pursue opportunities to advocate for the elderly. Toward that end, law schools should be encouraged to partner with community organizations that provide legal and social assistance to the elderly. For instance, Brooklyn Law School launched an Elder Rights Clinic in 2013 in partnership with the Harry and Jeanette Weinberg Center for Elder Abuse Prevention at the Hebrew Home at Riverdale and the South Brooklyn Legal Services Elderlaw Project. Students in the clinic manage a caseload directly representing older adults in housing court, and also complete a policy or advocacy related project addressing issues such as ethics, privacy rights, consent to sexual activity, or access to justice. Students also attend a weekly seminar that addresses foundational legal concepts in defending the rights of older adults across the spectrum of potential legal issues. By framing this clinic as an immersion in elder rights, there is a critical shift in the way students view and experience the field and their responsibilities and opportunities as future elder law practitioners.

At the same time that it is imperative for law schools to teach students about the facts of elder abuse, and how to interview older clients to screen for signs of abuse, there is also a need for CLE programmers to increase their elder law courses in general and to make the issue of abuse a component of such courses. The need for such continuing education was identified by respondents to the Survey who also called for pertinent ethics education because, as two respondents said “[e]thics are so lacking it is beyond belief” and “[t]he one thing that gives me the most concern is the lack of ethics and how many lawyers prey on the elderly.”<sup>8</sup>

The mission of the Weinberg Center for Elder Abuse Prevention at the Hebrew Home at Riverdale is to provide emergency shelter for victims of elder abuse and to enhance public awareness and knowledge about elder abuse. The Center has devoted significant resources to identify and train many categories of persons who interact regularly with vulnerable seniors, so that they have the tools necessary to see and hear signs of physical and emotional abuse. It is critical that more law schools and CLE providers join this effort by incorporating such training into their elder law curricula.

## Endnotes

1. Nina A. Kohn & Edward D. Spurgeon, *A Call To Action On Elder Law Education: An Assessment and Recommendations Based On A National Survey*, 21 U. Ill. Elder L.J., 345 (2014).
2. *Id.* at 347.
3. *Id.* at 363-367.
4. *Id.* at 361.
5. Lifespan of Greater Rochester, Inc., Weill Cornell Medical Center of Cornell University, New York City Department for the Aging, *Under the Radar: New York State Elder Abuse Prevalence Study*, 10 (2011).
6. U.S. Dept. of Justice, Elder Justice Roadmap Project Report, 39 (2014).
7. *Id.* at 3.
8. Kohn & Spurgeon, *supra* at 361.

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