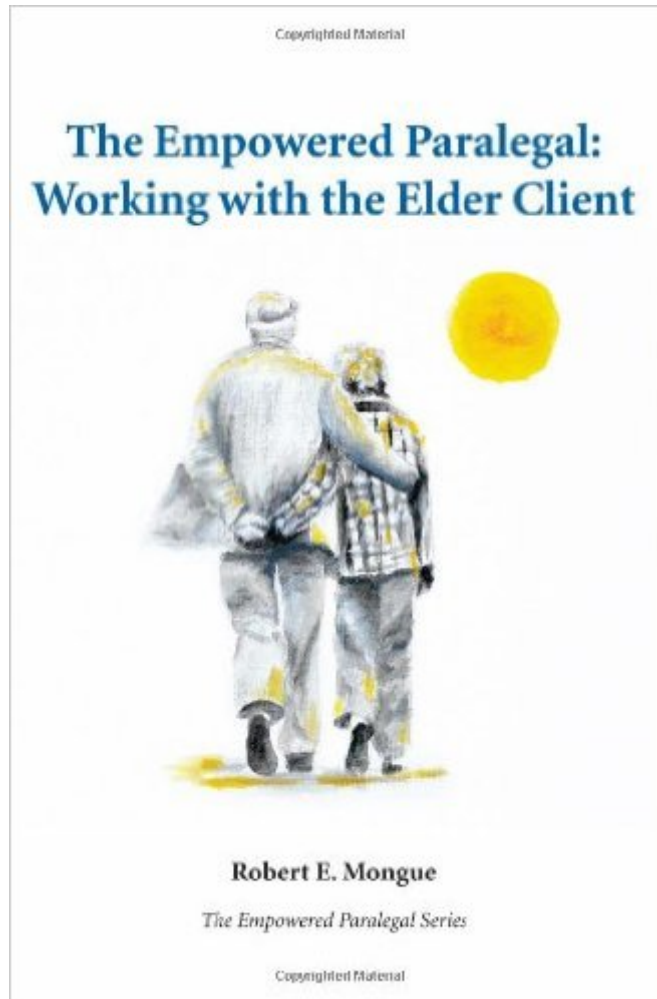


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The Empowered Paralegal: Working With The Elder Client



Synopsis

Elder law is a dual-natured creature and in many ways is quite unlike any other area of law. Substantively the law is law statutes, cases, rules, and regulations all of which must be researched, analyzed, understood and applied. Unlike any other type of law, however, elder law is not about something a client is going through, such as a divorce, bankruptcy, a real estate transaction, or even a criminal charge. Elder law is about whom and what the client is an elderly person. The *Empowered Paralegal: Working with the Elder Client* enhances understanding of elder law clients, the laws applicable to them, and the issues they face. The *Empowered Paralegal: Working with the Elder Client* examines the many influences on elder clients and their families, the deeply personal perspectives which result from those influences, and how they affect the decisions elder law clients make. It focuses on awareness and understanding of the elder client, explaining in clear language the dual nature of the elder client, the physical and psychological changes that occur as we age, and the practicalities of accommodating these changes when working with elderly clients. It also examines: Issues surrounding competency, as well as the need for and methods of documenting competency in the file. Dealing with the client's family, including conflicts of interests, confidentiality and undue influence. Perspectives, many culturally or religiously based, on aging, death, and dying. Intestacy, estate planning basics, and the use of basic estate planning tools to meet client goals. Advanced directives and other means of planning for end-of-life decisions. Social Security, SSI, Medicare, Medicaid and other public benefit programs and laws directly affecting the elderly. Elder abuse and the conflicts that may arise between the attorney/client privilege and mandatory reporting statutes. Ethical dilemmas faced by the professionals who work with the elderly.

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Customer Reviews

Mongue's book does not cover the ho and the hum of regular 'how-to' paralegal books. In fact, what he covers should be taught in every school regardless of specialty, profession or even age. Here, Mongue deals with our feelings about aging and the myths, stereotypes, cultural prejudices and extrapolations to the general population based upon personal experience. He draws you in as he explains behavior and the aging process and teaches you how to react as a result. As it turns out, much of what we think about the elderly is wrong, wrong, wrong. --Chere Estrin, Editor-in-Chief of KNOW, The Magazine for Paralegals and SUE, For Women in Litigation; Chairperson of the Board, The Organization of Legal Professionals (OLP)

An insightful guide that any legal professional who works with an older population will find extremely useful. Mongue brings his extensive expertise both as a practicing lawyer and a paralegal instructor to the table, and illustrates his points with interesting examples. He discusses the complexities of the law in regard to aging in a clear, direct style that readers of all experience levels will appreciate. This book is a must-read and a valuable desk reference for anyone who interacts with elder clients. --Lynne J. DeVenny, Co-Author of Workers Compensation Practice for Paralegals and blogger at Practical Paralegalism

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My first "real job" was working as a janitor in a hospital in western Massachusetts. Being new to the

staff I often found myself assigned the wing of the hospital that cared for elderly patients. This was a wing in which no one on the staff wanted to work. The patients were generally senile and generally dying. They were all, of course, "old" and no one was anxious to be around old, senile or dying people. Many of these patients were tied to their beds. Many had little or no sense of where they were. Some would repeat phrases or individual words endlessly. Often the repeated word was, "Nurse." Almost all had constant needs - the need to be cleaned, the need to roll over, the need to be acknowledged. As I moved from room to room mopping and dusting, morning after morning, two things came to mind. First, these people, being elderly and approaching the ends of their lives even if they were not -at that moment - dying, had a good number of commonalities. Second, however, each of them was different. Each had their own particular instance of whatever disease or ailment brought them to the hospital even if many of the other patients had the same disease or ailment. More importantly, each had his or her own personality and, if not suffering from constant dementia, their own approach or perspective on their current state, their future, and their approaching death. One of the advantages of being a janitor is that, unless there is a specific need, you are largely invisible. Being unnoticed, you can observe not only the patients but their families and the medical staff. Here to, I found commonalities. But among families, I saw remarkable differences not only in personalities and temperaments, but in their approach to the current status, the future and the approach to the end of life of their loved ones. The broadest, most superficial commonalities arose from the mere fact that those loved ones were elderly and in the hospital. Other commonalities appeared to arise from cultural, religious, educational, and economic factors. Our area did not have a lot of diversity. However, there was enough to see that common elements of the perspective of second generation Italian-Americans from the northern-New England "Yankees" of my mother's family and the French/German influence on my father's family. The Protestant perspective was not much different from the Catholic, although the differences were perceptible. There were common factors in the approaches of the poor, distinguishable from those of the middle class, which were equally distinguishable from the rich (although the truly rich seldom found it necessary to die in the public hospital.) Perspectives changed with the level of education. Combining these factors with differences in attitudes that existed between generations within each family resulted in a multitude of individual emotional and intellectual reactions to illness, aging, disability, dementia and death. Yet, it appeared to me that medical service providers had only one approach that they applied to all of the patients and, if they paid any heed to the families at all, to those who loved and, except for the duration of their hospitalization, provided care for them. Caught up in the science of medicine - the machines, the charts, the new techniques, perhaps combined with a need to depersonalize the

patients in order to remain objective, the approach was often one of intellectual superiority, of knowing better than the patient or their families what the patient wanted or needed, of knowing better than the patient or their families when, how, and where it was better for the patient to grow old or die. Patients appeared to be just patients, not necessarily people in the sense of individual persons. Thus the only perspective that mattered was that of the medical providers. It is not that they did not care, often deeply, for their patients. It appeared simply that they believed there was only one way to care for the patients, regardless of the individual perspective and personality of the patient - their way. I was in high-school at the time, convinced that I was going to become a doctor myself, so my focus was on the medical profession. It was not until a decade later as I began the practice of law that I realized the legal profession was often afflicted with the same narrowness. In my last year of high school Elizabeth Kubler-Ross published *On Death and Dying* beginning the long process of changing the medical profession's perception of the "right" way to care for the dying patients. Since then great progress has been made not only in the medical profession's approach to death and dying, but in the approach to aging and the elderly with new research assisting in the understanding of the elderly in terms of medicine, sociology, law and many other aspects of society. It is my hope in this book to digest and present much of that knowledge for the paralegal - the person in the law office most involved in interacting with the client - so that the paralegal will be empowered to best meet the needs of the elderly client and to manage that client as part of the legal team.

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