Nathan Young writes: “I learned something fundamental about working in law: to let myself be human. When you are nervous and concerned about your ability to do a new job, it is easy to default to routine. Stare at the file, take notes, go down checklists, anything to avoid a mistake you are afraid will ruin the client’s impression of you. In the process, you distance yourself from the client, from any connection that would help communicate what the client really wants and needs.

“Lists, detailed procedure, and complete notes were a crutch for me and a wall between me and the client. When you put down the pen and look the client in the eye, mistakes might get made (and in my case, mistakes were made); you might miss an item on the checklist and have to call later. However, failing to just talk to your clients is worse than missing a minor detail that can be corrected. Elder law is a relational field of work and the experience of working with clients, person-to-person, really brought that point home.”

As Megan Dyer observes: “Before my first client meeting, I wrote out everything I was going to say about the legal issue stated on the intake sheet. It turned out very differently! I have learned that my first task must be to listen to the client, learn what his or her goals or legal concerns are and then formulate a plan to address the client’s situation. I have to go where the case takes me.”

CHECKLIST OR NO CHECKLIST?

I sometimes nudge the students in opposite directions:

- Use a checklist (or you will miss something)!
- Don’t use a checklist (or you will miss something)!
- Put down the pen and talk with your client!
- Pick up your pen and take good notes!

Fortunately, the students learn to find a balance between structure and flexibility. A checklist gives a sense of security and predictability, especially for a learner, but this feeling can turn out to be false.
WHY CAN’T I GO HOME?

Mr. G welcomed us warmly to his room at the assisted living facility. He showed us family photos on his wall and told us who was in each photo. Denise Diao explained that the county social services department had filed a court case claiming Mr. G was incompetent. Our job as his court-appointed “guardian ad litem” was to explain his views and investigate his situation. “I do need help with some things, I agree with that,” he said. But he didn’t think he needed to be in a locked wing of the building. “Why can’t I go home?” he asked.

Denise met with the facility administrator and reviewed Mr. G’s medical records. Then she went to Mr. G’s home to meet with several members of his family. They described disturbing incidents of Mr. G’s anger and confusion. The family lived in a crowded home situation on a busy road. Denise recommended to the court that a guardian be appointed for Mr. G. Fortunately, the court chose a responsible daughter whom he trusts.

By taking into consideration Mr. G’s very weak family situation, we reluctantly concluded that he met the legal standard as an “incompetent adult.” The challenges of caring for a cognitively impaired relative at home are sometimes beyond a family’s abilities and resources.

SWEETENING THE DEAL

After decades of work with a major company, Megan Dyer’s client learned that his employer was closing its local office. The company offered him severance benefits, but only on the condition he sign a contract giving up any right to sue the company. He sought our legal advice. After researching the law, Megan made a counter-offer on her client’s behalf. It was accepted by the company, significantly increasing the dollar value of his severance package.

How Will I Pay for My Long-Term Care?

Sarah Warren’s client was a kindergarten teacher. When she was in her twenties, she was in a serious car accident that left her in a coma for months. Now in her seventies, she lives in assisted living, and her brother helps her manage her money. Problem is, she expects to run out of money next year. Assisted living costs average $3,200 per month in our area.

Sarah analyzed her client’s eligibility for the Medicaid Special Assistance program, which helps some people with their cost of care. Unfortunately, this client’s income exceeds the program’s eligibility rule, which caps income at about $1,250 per month. Either her family will have to supplement her income or, if her physician certifies her as needing nursing home-level care, she will move to a Medicaid bed in a nursing home. That isn’t the kind of living environment she would prefer, but our health care policies don’t give her much choice.

Love What You See?

To make a a tax-deductible contribution, contact eclinic@wfu.edu

Heart
ALUMNI NEWS

♦ Caroline Knox (’00) opened Knox Elder Law in Hendersonville, N.C. She is board certified by the National Elder Law Foundation and by the N.C. Board of Legal Specialization.

♦ Elizabeth Osborne Lawrence (’11) practices estate planning and elder law in Atlanta. Briana Whalin, due to graduate in 2019, is working this summer with Elizabeth’s firm.

♦ Jenica Cassidy (’14) published a guardianship restoration research project that she co-authored: "Restoration of Rights in Adult Guardianship: Research and Recommendations." It can be found on the website of the American Bar Association’s Commission on Law and Aging.

♦ Noah Garrett (’17), with Walker Lambe in Durham, writes: “I practice in the areas of estate planning and elder law and assist clients in executing wills, trusts, and powers of attorney. I also see clients in need of help navigating the complexities of Medicaid. I use the knowledge and skills I gained in the clinic every day in my work, and I love coming to work knowing I am getting to spend time with clients and their families to help plan for the future.”

Google Wake Forest Elder Law Clinic for free information.

HUG A GERIATRICIAN TODAY!

Our students got to learn from Drs. Mia Yang and Maryjo Cleveland in the outpatient geriatrics clinic at the Wake Forest Baptist Medical Center. They saw how cognitive testing is done and how patients and their families cope with a diagnosis of dementia. One student writes, “The clinic observation experience helped me be better prepared to recognize and assist with issues of impaired cognition that affect my own legal clients. Observing Dr. Cleveland’s expertise firsthand leads me to think making friends with a great geriatrician should be a priority for all estate planning and elder law attorneys!”

Dr. Cleveland explains a test to Hailey Cleek.

Learn more about the great services at the Sticht Center for Healthy Aging and Alzheimer’s Prevention. Visit www.wakehealth.edu/agingresearch/ or call 336-713-8250.
VOTER ENGAGEMENT

The Elder Law Clinic was awarded a 2018 Voter Engagement Grant from Democracy North Carolina. Professor Kate Mewhinney and her students offer non-partisan voter registration services and community education to increase voting access for senior citizens and people with disabilities.

This spring, Hailey Cleek and Briana Whalin (right) gave a talk at a senior citizens community center. The clinic students answered questions about accessibility of voting sites, absentee voting, and other concerns.

FIVE STAR REVIEWS

- We moved to Winston-Salem from Ohio and knew our existing wills were not up-to-date with our wishes. After reading in the newspaper about Wake Forest Elder Law Clinic, we now have the peace of mind of knowing our wishes will be followed. Thanks to Sarah Warren who was pleasant to work with and very professional. She listened and asked us thought-provoking questions. Sarah will surely make a great attorney.

- I really appreciated Jonathan Hermes' understandable explanations. He repeated things to make sure I was getting my intentions expressed in the documents.

- Nathan Young was very courteous and gave excellent explanations of the law.

- Hailey Cleek was informed and courteous. She was knowledgeable concerning our situation.

- Megan Dyer was thoughtful and patient and concerned about my welfare. She took the time to explain everything I need to know about my paperwork.

- Let me know when Briana Whalin passes the bar so she can be my lawyer!

- Denise Diao was very efficient. I was well-satisfied with her help.

- Koren Hardy was very organized for the interview. I especially appreciated she was friendly and patient. She was very knowledgeable about the questions I asked.

“We now have peace of mind knowing our wishes will be followed.”
- Mr. & Mrs. S
NEWS FROM PROFESSOR KATE MEWHINNEY

- Wrote an article for the Virginia Center on Aging publication, Age in Action, entitled “Into the Elder Law Trenches at Wake Forest University School of Law.”

- Presented at the Novant Health Ethics Educational Retreat on “Guardianship when the patient refuses the discharge plan.”

- Was retained as an expert witness for a jury trial in Mecklenburg County Superior Court and testified as to the best practices for lawyers to follow to avoid will challenges based on undue influence.

- Helped plan the 2018 Aging Re-Imagined Symposium at Wake Forest University. Speakers from a broad variety of disciplines attracted more than 260 attendees. We were fortunate to hear talks by Charles Sabatino, director of the American Bar Association Commission on Law and Aging, and Professor Israel Doron of the University of Haifa.

SERVING THE COMMUNITY

The Wake Forest motto Pro Humanitate means “For Humanity.” In the Elder Law Clinic, the students are certainly doing their part to help others.

Jonathan Hermes had a client whose daughter has complex medical problems and is eligible for Medicaid. Inheriting money would cause the daughter to lose this important benefit. Jonathan looked into the Corporation of Guardianship, a non-profit agency that provides care coordination for persons with disabilities. The client decided to leave assets to her daughter in a special needs trust. The agency will manage the funds to supplement the daughter’s care, keeping her eligible for Medicaid.

In April, we partnered with two non-profit groups: Friends of Residents in Long-Term Care and the AARP NC. We sponsored a program in which people talked about concerns they had about long-term care options.

Megan Dyer gave a presentation at the State Employee Credit Union’s Family House about common legal issues of older people. The SECU House offers low-cost hotel-style housing for patients and their families, while they are getting care at local hospitals.

In February, Nathan Young spoke about powers of attorney and guardianship to a large group of providers of aging services. The program was hosted by the Shepherd’s Center of Winston-Salem. Attendees wrote, “Nathan, we were all impressed at your poise and knowledge!”

Jonathan Hermes evaluates a special needs trust.
THE ELDER LAW CLINIC
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Elder Law Clinic
Made my life better and it
Help’d old people too

A haiku by Koren Hardy

Sarah Warren and her client take a break.

EDITOR
Kate Mewhinney

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The Elder Law Clinic
NEWSLETTER
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