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# Elder Law Answer Book

Fourth Edition

by Robert B. Fleming and Lisa Nachmias Davis

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Before we review some of the new material added to this, the Fourth Edition of the *Elder Law Answer Book*, let us pause a moment for a few words about the book itself. We are pleased to see a new edition, for two reasons:

1. The new edition means that no one will have to laboriously pull out specified pages and replace them, worrying about whether the task was properly completed four, or five, years ago. Instead, the entire contents of your *Elder Law Answer Book* binder will be replaced. You get to start with a fresh, new, up-to-date volume!
2. Future annual updates will follow the same methodology. Rather than replacing individual pages or sections, the entire text will be replaced each year. You will retain only the binder, and the process of updating this valuable resource will be much simplified.

Other than that administrative matter, 2016 was another busy year for elder law practitioners. It seems to us that the breadth and variety of material we touch in our practices—and in this volume—increases exponentially each year, and the past year proved that notion yet again.

## Highlights of the Fourth Edition

We are here to help. The following are some of the changes we have seen—and written about—affecting your practice:

- The Achieving a Better Life Experience (ABLE) Act [I.R.C. § 529A] has become a real option, actually available in individual cases. With plans operating in at least a handful of states, our collective attention can turn to how it will actually affect real people in real situations. (*See* Qs 8:39–8:45.)
- The Affordable Care Act, and particularly the Expanded Medicaid option, continues to affect the lawyer’s options for long-term care planning. We have reviewed those changes and have updated the description of planning considerations for Medicaid assistance. (*See* Ch. 17, and particularly Qs 17:27 and 17:32.)



- The importance of home care options continues to grow, and we have expanded our discussion of the availability, funding, and practical concerns involved in such care. (*See* Qs 13:9–13:25.)
- As the Uniform Trust Code continues to spread to more states, we have revised and expanded our coverage of trust administration and appellate cases as they begin to trickle in. (*See* Ch. 7.)
- The Health Insurance Portability and Accountability Act (HIPAA) is both confusing and alarming for many practitioners. We describe what practitioners should worry—and not worry—about. (*See* Qs 10:31–10:42.)
- We offer some advice about how to counsel clients who insist on “do-it-yourself” estate planning, including analysis of holographic wills, joint-tenancy account titles, and “convenience” accounts. (*See* Qs 4:49, 4:74, and 6:11.1.)
- Our coverage of gifts by an agent under a power of attorney has evolved as the practice—and the law—develops. (*See* Qs 9:36–9:41.)
- We have included references to a number of new cases in guardianship and conservatorship proceedings, including issues such as attorneys’ fees, the possibility of a proceeding becoming contested, and the usefulness of mediation. (*See* Qs 11:30–11:41.)
- As we do every year, we have updated Social Security, tax, and other numbers throughout the entire volume. We pride ourselves on producing a practical, useful compendium of current information.
- We have added a host of new reported cases, sprinkled across every topic.

The Index has been updated to reflect all these changes.

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