

## Commentary

### But Wait, There's More--Commentary on "Training Students, Conducting Research and Engaging with Public Policy at the University of Hawai'i Elder Law Program"

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#### Abstract

This is a commentary and update related to an article published in the Public Policy & Aging Report, (PPAR) which provided "an overview of the University of Hawai'i Elder Law Program (UHELP), a program at the William S. Richardson School of Law at the University of Hawai'i that trains students, conducts research, provides service to the university and the community, and engages directly with public policy, with a focus on aging." This commentary expands and provides special insight on several portions of the article relating to the author's connection to gerontology and geriatric medicine at the University of Hawai'i and in the community and the role that the law and lawyers can play. It relies on previous articles by the author, which provide a historical perspective.

**Keywords:** Academia; Advocacy; Aging

The Public Policy & Aging Report (PPAR) article starts with a description of the University of Hawai'i Elder Law Program (UHELP).

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- UHELP at the William S. Richardson School of Law is an integral part of the University of Hawai'i at Mānoa located on the Island of O'ahu. For the past three decades, UHELP has played a role in educating future lawyers and healthcare providers, and by providing free legal services to underserved older persons, undertaking a wealth of research projects, providing significant service to the university and to the community, and pursuing legal advocacy and reform, especially on behalf of older adults and their families and caregivers [1].

It seems unconventional to be asked to write a commentary on one's own article, but, upon reflection, it is a good opportunity to engage in some self-reflection on how one got involved in geriatric medicine and gerontology at the University of Hawai'i and in the community, especially with no formal academic background in these interrelated fields. It also provides a good opportunity to update and round out some of the topics discussed in the article and to reflect on the future direction of UHELP [2].

The author's indirect connection to geriatric medicine and gerontology (and the law) stemmed from his previous experience in the fields of health care and the law, having served in the U.S. Army first as a Medical Service Corps Officer and later as a Judge Advocate General's Corps Officer. The author's direct connection to gerontology, and later to geriatric medicine, started after completion of his military service when he was hired at the Legal Aid Society of Hawai'i (<https://www.legalaidhawaii.org/>). There, the author served as supervisor of its "Senior Citizen" Section funded primarily through a grant under Title IIIB of the Older Americans Act (<https://acl.gov/programs/legal-help/legal-services-elderly-program>) [3]. This was during a period of great change in the state of Hawai'i and across the nation regarding health care decision-making and the so-called "right to die" [4].

The author's indirect connection to geriatric medicine and gerontology (and the law) stemmed from his previous experience in the fields of health care and the law, having served in the U.S. Army first as a Medical Service Corps Officer and later as a Judge Advocate General's Corps Officer. From the time he was hired by the Legal Aid Society of Hawai'i, the author became most involved in educating "senior citizen" groups and assisting clients and their families with a variety of legal issues, including family, consumer and landlord-tenant issues, "elder abuse," and planning for the future, such as making wills and powers of attorney and addressing health care decision-making, incapacity and death. This was during a period of time that major changes to the health care decision-making laws were being pursued throughout the country, including the use of what was then called "Living Wills," which would be replaced by what are now called "advance health care directives" [5].

A highlight of the author's involvement in the legal process regarding health care decision-making during this period, and in particular, end-of-life decisions, occurred when the author was appointed by the Family Court of the First Circuit of Hawai'i to represent the interests of an incapacitated 60-year-old adult who was diagnosed as

being in a persistent vegetative state after having sustained a traumatic brain injury and her son was seeking to remove her feeding tube (In Re Guardianship of Crabtree) [6]. This court case was decided just before the United States Supreme Court ruled on the precedential Nancy Cruzan case [7].

During these most rewarding "Legal Aid" days as an attorney with a non-profit legal services organization, the author was requested to make numerous presentations for Hawai'i healthcare providers on the changing laws regarding health care decision-making, including end-of-life decisions. It was also at this time that the University of Hawai'i would request that the author teach elder law issues and conduct an elder law clinic at the law school, which, in turn, led to interest by the University of Hawai'i Center on Aging (COA), and the Department of Geriatric Medicine at the John A. Burns School of Medicine, in collaborating on education and training efforts in aging at the university. Two years later, UHELP was established at the university and collaborative efforts in gerontology and geriatric medicine really took off [8].

A large share of the integration into gerontology was the opportunity at the university to teach with a multidisciplinary approach, not only geriatric medicine department at the school of medicine (and later in the school of nursing) but also in gaining approval to have classified graduate students in the fields of social work, nursing, public health, and philosophy to take selected law courses, such as law, aging and medicine, health law, bioethics and, on occasion, elder law clinic. This, in turn, led to opportunities to publish in journals focused on health care providers [9-11].

Thereafter, a major undertaking at the intersection of health care, ethics, culture, and the law was the publication of the multi-disciplinary book, *Cultural Issues in End of Life Decision Making* [12]. The writings were from various viewpoints, including American Indian and Alaska Native Cultures, African American, Hispanic Asian, and Pacific Islanders in the United States, perspectives as well as from the perspectives of HIV/AIDS and of persons with disabilities communities. Christian (including Catholic), Jewish, Muslim, and Buddhist perspectives as well as military and veterans cultures were also addressed.

This publication led to greater participation and collaboration in the health care community such as serving on hospital ethics committees [13], serving on the University of Hawai'i Biomedical Institutional Review Board, one of three of the university's Institutional Review Boards responsible for the review of human research conducted by university personnel (<https://research.hawaii.edu/orc/human-studies/uh-irbs/>) and even an article on non-allopathic medicine [14]. More recently in its history, the UHELP team was approached by the Doctor of Nursing Practice (DNP) Program at the Nancy Atmospera-Walch School of Nursing with a request to include its students in the law school course, *Health Law: Bioethics*.

All the while during the described and the following forays into geriatric medicine and gerontology, students were actively involved in multidisciplinary and subject areas in didactic courses, clinical experiential opportunities, and research. As an example, several law students, each of whom had taken courses taught by the author and who desired to do extra research into medical/legal/ethical issues assisted with a very complex case, which lasted over the course of several semesters and over winter and summer breaks. The introduction to a law review article provides background:

- The author was approached by a 91-year-old retired naval aviator's family with respect to legal/bioethical issues related to the retiree's health care received at an Army Medical Center (not a Department of Veterans Affairs Medical Center, although the retiree is, of course, also a veteran). The issues centered on the patient's desire to have his pacemaker deactivated....[and, according to his own understanding, he would most certainly die quickly due to earlier procedures performed on his heart.] The Army cardiologist was supportive and, later, an appointment was scheduled to talk more about the deactivation. The hospital ethics committee was convened to address the question and, in the process, a request for legal advice was sought. [Ultimately the patient was told that] "such a deactivation would constitute 'physician-assisted suicide' under the Federal Assisted Suicide Funding Restriction Act of 1997 [15], which prohibits using federal funds to support physician-assisted suicide." (42 USC 1440) [16]

In reaction to the situation, and with the full support of the veteran, UHELP held a seminar "Matters of the Heart," with presentations by numerous participants including the veteran and his family, the former and current cardiologists, several geriatric medicine, mental health, and ethics experts, plus a prosecutor, and well over 100 participants [17]. The veteran was in high spirits and his family was grateful for the concentration of legal, medical, and ethical issues raised as well as the respect and admiration all participants showed the veteran. Several months later, the veteran's right to autonomy and self-determination was honored and his pacemaker was deactivated. However, his eventual death turned out to be different from what he and his family expected and became a somber lesson for all involved.

Over the following years, including the Covid-19 Pandemic, UHELP, the Department of Geriatric Medicine, and the DNP Program worked together to develop additional strategies to embed lessons learned and to meet the respective requirements of a new generation of law, geriatric medicine, nursing, and social work students. Changes to the curriculum included more inclusion in course modules of experts from different fields. Also, ongoing efforts include UHELP legal services to underrepresented clients and participation in efforts to advance legal reform. There is much more but there are word limitations for commentaries and it is best left for another article.

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