

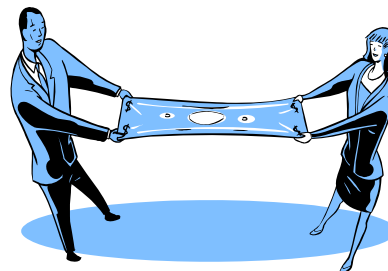


2011 NATIONAL AGING & LAW INSTITUTE

BY MIKE WYTYCHAK

In early November, I attended the 2011 National Aging & Law Institute sponsored by the National Academy for Elder Law Attorneys (NAELA) and the National Aging and Law Conference in Boston. Here are some forces at work that are affecting the senior population.

- ❖ We are in the midst of a transition in the composition of senior citizens. The “Greatest Generation” is giving way to the “Baby Boomers”. Those two populations have very different characteristics. The “Greatest Generation” lived through the Great Depression and World War II. They are hardworking people who saved for their retirement. In contrast, the “Baby Boomers” rebelled against the status quo to bring about Civil Rights, Woman’s Liberation, Earth Day, and a drug culture. They protested against the Vietnam War and they distrust government. The Baby Boomers will redefine the role of seniors in our society.
- ❖ The Digital Age is revolutionizing our world. It began with computers, then evolved into the internet, and now is building mobile technology. There isn’t anything that hasn’t been changed by the Digital Age. It opens new opportunities and is also fraught with traps for the unwary.
- ❖ The downturn in the economy has hurt seniors in the pocketbook. The nest egg that they have saved for throughout their lives has gone down in value (e.g. investments, homes). The governmental programs for them have been cut back (e.g. Medicare, Medicaid). The cost of medical care has skyrocketed. Everyone is trying to stretch a dollar.



There were many workshops that helped elder law attorneys sharpen their skills. I found the following workshops very helpful.

- ❖ Special Needs Trusts
 - East Coast and Mid-West lawyers have blazed the trail for the do’s and don’ts in drafting trusts for disabled individuals. We tackled difficult topics such as payment for housing, reimbursement to parents for care-taking, the role of “trust protectors”, and payment of expenses after the beneficiary passes away.

- A family law attorney explained the role of a special needs trust when parents are divorcing and have a disabled child. We went over how the division of assets and orders for income can affect the future public benefits of a disabled child.
- ❖ Estate Planning
 - Avoiding gift and inheritance taxes has been a traditional strategy in estate planning. Today, the exemptions are so high for gift and inheritance taxes (i.e. \$1,000,000 and \$5,000,000) that the traditional advice is antiquated.
 - Until the recession, Americans were wealthier than at any prior time in this country's history. The new focus for estate planning is passing and preserving a family's largess to the future generation(s).
 - Public benefits (e.g. Social Security, Medicare, Medicaid, and Veterans Benefits) have been the stalwarts of the public interest. They will continue to have a central role in the future, but demographics and economics will moderate and restrain the role they've had. Elder law attorneys must know how these programs can supplement an individual's private resources.
- ❖ Dementia
 - The medical field is slowly making progress in understanding Alzheimer's disease.
 - 43% of people over 85 years of age will suffer from dementia.
- ❖ Deduction for Medical Expenses
 - I spent an hour with an attorney from Maryland talking about deducting medical expenses from patient liability for Medicaid applicants. Although federal law allows such a deduction, Idaho hasn't codified that allowance. I learned how this attorney reversed that practice in Maryland over the course of four years.
- ❖ Technology for Lawyering
 - The reputation of a lawyer by word of mouth is being replaced by information posted on the internet. Clients can vote on their satisfaction with a law firm. Web firms rate attorneys based upon on-line gathering of data that is processed by an algorithm.
 - Websites for attorneys should invite users to be interactive. The website should post current events, helpful tips, and links to resources. If the website is simply an electronic version of the firm's brochure, users won't be impressed.
 - Mobile phone technology is the next wave in the digital revolution. Lawyers would be wise to find ways to use technology to let clients gain access to the law firm.



Every time I go to a NAELA conference, I'm inspired by the presenters. The conferences help me keep current with this specialty in law. Finally, it's just a nice group of people to be around.