

# 'It's Almost a Calling'

Joel Chineson/Legal Times  
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There's no denying it, we're getting older. The percentage of Americans over 65 has more than tripled since 1900, and all indications are that the most rapid increase is yet to come in the years 2010 to 2030, when baby boomers start turning 65.

So perhaps it's no surprise that elder law, a legal specialty that barely existed just 15 years ago, is now a hot practice area.

Jihane Rohrbacker, communications director of the National Academy of Elder Law Attorneys, a Tucson, Ariz.-based professional association, points to the evolution of NAELA as indicative of the practice area's growth. NAELA had no more than 25 members when it was founded in 1988. By 1996, its enrollment had risen to 1,700. Last year, it numbered 3,500 members. Today, about 4,500 lawyers belong to its ranks.

But what is elder law?

As the name more than implies, an elder law practice focuses on the legal needs of seniors. But, while a practice that draws its focus from its clientele, elder law encompasses many fields of law. Among the most prevalent are estate and trust planning and administration, conservatorships and guardianships, disability planning, Medicaid planning, Medicare claims, and ERISA and retirement issues.

According to solo elder law attorney John Laster of Falls Church, Va., the differences between a traditional trusts and estates practice and an elder law practice historically are the added components relating to medical and health issues and to public benefits associated with means testing. Other differences today include Medicare denials, Social Security issues, working with personal injury and medical malpractice lawyers. Laster, 53, says it's a "very client-intensive" practice area that combines "technical legal issues and human emotion issues."

Since more than 15 disparate legal specialties fall under the elder law umbrella, few elder law attorneys claim expertise in all of them.

"No one is a general practitioner these days," says elder law attorney Ron Landsman, who heads a three-lawyer firm in Bethesda, Md. He adds, "Given you're already in a specialty, it's not surprising there are different flavors." Landsman, 55, considers his subspecialty to be Medicaid spousal issues.

Yet no matter how wide-ranging their practices, elder law attorneys are quick to point out the unique qualities of their chosen field.

Robert Bullock is founding partner of the Elder and Disability Law Center, which has offices in the District, Tysons Corner, Va., and Laytonsville, Md.

"Seventy percent is practicing law. Thirty percent is social work," Bullock, 57, says. "An elder law practice requires the intensity that parallels a litigation practice and combines a multitude of disciplines — legal, economic, social, psychological, and medical. You're always being thrown into crisis situations."

Bullock emphasizes that his elder law practice knows no standard office hours and no time when he can safely turn off his cell phone. He and his staff — one other full-time attorney and two full-time paralegals — often work during the evenings and on weekends to accommodate the schedules of the family members of his senior citizen clients.

Generally speaking, elder law attorneys possess an almost inordinate dedication to their practices. "There's a sense of loyalty in the elder law community that's probably unique," says Bullock.

That's a sentiment shared by many in the elder law community. "It's a lot more personal," says Kathleen Cossa, 56, who heads a two-lawyer office in Fairfax, Va. "It's a kinder, gentler practice," she adds, pointing out that elder law attorneys, like old-time doctors, often do home visits and attend to clients in nursing homes.

While none of the elder law attorneys interviewed for this article had complaints about their income, most admitted that they could be making more money in other practice areas. "It's not a high-profit practice," says Jacqueline Byrd of Bowie, Md.'s two-lawyer Byrd & Byrd.

The consensus is that elder law attorneys can earn anywhere from \$40,000 to \$400,000 a year, depending on firm size, specialties, location, and other factors. What is striking, however, is how many attorneys come to the practice for very personal reasons. "It's almost a calling," says Cossa.

Says Byrd: "The people who make the best elder law attorneys are those who come to it through personal experience."

Take, for example, Bethesda, Md., solo practitioner Morris Klein. His mother developed Alzheimer's disease in 1988. As an only child, he was her primary caregiver during her final illness. The experience left him convinced that people needed help navigating the shoals of nursing home care, which can cost as much as \$200 to \$250 per day. In 1994, he decided to dedicate his practice, which previously was primarily trade association, pension, and estate work, to elder law.

Klein, 53, now focuses on planning for long-term care, guardianships, and disability issues, which he characterizes as "a very fulfilling practice." He adds, "I really love what I do. I couldn't say that before."

## 'STICKY BUNS AND HUGS'

Perhaps no one has a more unusual story than Byrd, who didn't go to law school until she was 50 years old — and then for the express purpose of becoming an elder law attorney.

Before attending law school, she had worked on Capitol Hill for 25 years. Her last job there was as director of support operations in the House Office of Nonlegislative and Financial Services. But she found herself unemployed when the Republicans took over the House from the Democrats in 1995.

While she was on the Hill, Byrd had hired an elderly widow from church to watch the children when Byrd and her husband were at their jobs. When the woman fell ill, Byrd found herself helping the woman, who received \$275 a month in Social Security, to obtain medical care. Her eyes were opened by the experience.

"The whole experience with her broke my heart," Byrd says, adding, "I had been totally oblivious to this, but learned how hard it was to wend your way through the system."

When Byrd lost her Hill job, it didn't take her much time to decide to enroll at the University of Baltimore School of Law. She earned her law degree in 1998, and was admitted to the Maryland Bar the following year. She and her husband, who had a general law practice, joined forces to form Byrd & Byrd. She focuses her energies on elder law, including estate planning, wills, powers of attorney, trusts, Medicaid, Social Security issues, and asset preservation.

Describing her practice, Byrd says, "It's half social work and half legal. My clients bring me sticky buns and hugs."

As different as elder law may be from other practice areas, most elder law attorneys pursue clients in the traditional way, by keeping visible. Byrd makes herself available to civics groups for speeches, and she teaches free classes at the senior center in Bowie. She also writes a column in the weekly Bowie Blade on senior issues.

Cossa, who says a very close relationship with a grandparent led her into elder law, is another practitioner who puts great stock in public speaking. She targets nursing homes and senior citizen groups. "One-half of my business comes from new sources that I get," she says.

Not surprisingly, referrals from other lawyers are also a big source of business, according to those interviewed for this article. Elder law attorneys also rely on referrals from social workers.

## GETTING THE BILLS OUT

When it comes to billing clients, the trend, according to William Fralin, 42, of Arlington, Va.'s two-lawyer Estate Planning & Elder Law Firm, is toward flat fees. Most attorneys agree that it's more palatable to their clients to know the cost up front.

Yet this scheme is by no means universal. Other attorneys use a combination of hourly and flat rates. For example, a consultation will be billed at an hourly rate, while a will or a trust will be performed at a flat fee.

No matter how they charge, the goal, according to Bullock, is to try to give the clients more than they expect. "If the case takes a turn, you go with it," he says. "You've been hired not only for your legal expertise, but to contribute peace of mind to a family."