

AGING AND TRANSITIONING WITH DIGNITY:

Protection for Clients and Peace of Mind for Lawyers as they Decide the Next Step in their Legal Careers

Friday, November 22, 2013

presented by

The South Carolina Bar Continuing Legal Education Division

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13-98

PROGRAM AGENDA

8:30 a.m. Registration

8:50 a.m. Welcome and Opening Remarks

9 a.m. Diminishing Mental and Physical Ability: How it Affects Your Practice of Law

Dr. Craig Maylath, Geriatrician Senior Primary Care Practice

Maintaining an active law practice is a desirable goal, but the goal is not feasible indefinitely. Inevitably, there will be a winding down of one's practice. Like everyone else, lawyers are subject to the aging process, which can include disease, accidents and cognitive impairment. Even younger lawyers may face physical disabilities in themselves and in their family members. How do you know when it's time to reduce your work load? What actions will be in the best interest of your clients? And how do you go about adapting to physical and mental changes in yourself and your partners?

Key Topics Include:

- --Understanding how your impairments can impact your practice of law.
- --How to recognize declining cognitive ability in yourself, your partners and office staff.
- -- Maintaining good mental and physical health.

10 a.m. Consideration of Legal, Ethical, and Moral End-of-Career Issues for Lawyers

Nan E. Hannah, J.D.

Hannah Sheridan Loughridge & Cochran, Raleigh, N.C.

Ms. Hanna draws on her professional and personal experiences in addressing situations that arise as Baby Boomer lawyers reach retirement age.

Key Topics Include:

- --How to recognize and implement a course of action for lawyers who need to retire.
- --When and how to develop and implement a plan for retirement.
- --How to assist in work-life balance issues for lawyers serving as caregivers for elderly parents or loved ones.

Ms. Hanna shares unique insights that she has gained in her role as Chair of the "Retiring with Dignity" Task Force of the North Carolina Bar.

11 a.m. Break

11:15 a.m. Life After Law: What are You Going to do with the Rest of Your Life?

Nella G. Barkley, President/CEO Crystal-Barkley Corporation Charleston, S.C.

For more than 20 years, Nella Barkley has been helping lawyers and other professionals improve their mental health by finding their own personal career and life paths. She believes that life goals are complex constructs and when they arrive, "They illuminate every step you take in life." Ms. Barkley's strategic planning principles will help you understand your strength-oriented mindset, so you can craft a "retirement" career around your passion and age and transition with dignity.

12:15 p.m. Adjourn

FACULTY BIOGRAPHIES

Dr. Craig Maylath

Dr. Maylath specializes in providing primary care services to patients age 65 and older. Dr. Maylath joined the Senior Primary Care group at Palmetto Health in 2005 after completing a Geriatric Fellowship at Palmetto Health/USC School of Medicine.

Professional Credentials

- Residency: Internal Medicine; Dartmouth-Hitchcock Medical Center
- Fellowship: Geriatrics, Palmetto Health/USC School of Medicine 2005
- Medical Degree: Temple University, 1993

Nan E. Hannah

Nan E. Hannah, a native of Greensboro, North Carolina, attended Furman University where she majored in Physical Education while playing on the women's basketball team. After graduating from Furman in 1981, Ms. Hannah matriculated at Baylor University to continue her studies in Physical Education, graduating in August 1982 with a Masters of Science in Education. For seven of the next eight years, Nan taught social studies at the high school level while coaching basketball as well as track and field.

Nan attended Washington & Lee University School of Law graduating in 1993 with her J.D. Following law school, Nan served for two years as research assistant for Justice John Webb at the North Carolina Supreme Court. Nan worked first with a small insurance defense firm and thereafter spent 16-plus years practicing in a firm which served primarily businesses developing a strong foundation of knowledge in construction law, creditor's rights in bankruptcy, contract negotiation and review, and appellate advocacy. Nan is a certified mediator in the North Carolina Dispute Resolution Commission's Superior Court Mediation program. She is also an authorized arbitrator in the North Carolina Court System's District Court Arbitration program. In August, 2013, Nan became a founding partner with the firm of Hannah Sheridan Loughridge and Cochran, LLP in Raleigh.

Nan served as the President of the Wake County Bar Association and Tenth Judicial District Bar. She currently serves on the Board of Governors for the North Carolina Bar Association. She is active in White Memorial Presbyterian Church and the Cary YMCA. She is a board member for the Triangle Sports Commission.

Nella G. Barkley

CEO and Co-founder Crystal-Barkley Corporation

As one of the nation's leading authorities on career and life change, Nella Barkley has devoted more than thirty years to helping individuals and organizations unlock their full potential. Her process, Life\Work Design, developed with the late John Crystal, the co-founder of Crystal-Barkley and the contributor of the fundamentals of Richard N. Bolles' bestselling, What Color Is Your Parachute?, has helped thousands of clients create financially rewarding and personally satisfying lives. Going far beyond traditional outplacement or career counseling, the carefully structured process enables clients, many of whom may be facing career crises, to take an entrepreneurial approach to applying their skills to create new enterprises, new careers, or new roles in their present organizations.

Prior to co-founding Crystal-Barkley in 1981, Nella worked as an independent consultant to non-profit and for-profit organizations on issues of organizational design and deployment of human resources. Her consulting work grew out of her earlier involvement in volunteer work, including the development of Horizon House, a rehabilitation center for delinquent boys in Charleston, SC that became a model for other such facilities throughout the US. She subsequently developed a low-income housing rehabilitation program for the City of Charleston and served as the first General Manager of the Spoleto Festival, U.S.A., laying the groundwork for that major international arts event with its founder, composer Gian Carlo Menotti. She maintains her commitment to her community of Charleston, SC and her state through service on numerous boards, most notably those dealing with education and the arts.

At the height of her career as an independent consultant, she participated in a 13-week executive program, the Advanced Management Program, at Harvard Business School that led to her focusing her expertise on better aligning individuals with their work. Extensive research introduced her to John Crystal, a former WWII intelligence officer and a leading authority on how best to address living successfully and working in the most satisfying ways. Today she directs the Crystal-Barkley Corporation and its John C. Crystal Center, serving individuals and organizations throughout the U.S., in the Netherlands and the UK. In addition to providing Life\Work Design for individuals, the company helps people within organizations work more successfully, and provides managers with models for making promotion and selection decisions through its Management Matching consulting.

Nella is a frequent source for and guest of the media: CBS Morning News, the Wall Street Journal, Fortune, the New York Times, Washington Post, Financial Times, Cable News Network, Forbes, Industry Week, Fast Company and Parents, among others. Her articles have appeared in numerous publications. In addition to guiding the Crystal-Barkley Corporation, she continues to consult and to personally provide Life\Work Design and Management Matching consulting. She is the author of The Crystal-Barkley Guide To Taking Charge Of Your Career and How To Help Your Child Land The Right Job (without being a pain in the neck), both Workman Publishing.

She received her B.A. in French and Political Science from Sweet Briar College. She was married to Rufus C. Barkley, Jr., now deceased, and has three children and eight grandchildren.



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Nan E. Hannah

WINDING UP/WINDING DOWN: WHAT DO YOU DO WHEN ALL YOU HAVE KNOWN IS A LOVE OF THE LAW?

Nan E. Hannah
Partner
Hannah Sheridan Loughridge & Cochran LLP

Chair Transitioning Lawyers Commission North Carolina Bar Association

INTRODUCTION

See if this picture is familiar to you – A young man (or woman) grew up in a community where the most respected folks in town were the lawyers, doctors, and preachers. From an early age, he (we are just going to use "he" generically rather than being politically correct for the rest of this manuscript) knew he wanted to follow in the footsteps of the lawyers. He attended college and then, if an international conflict did not intervene, went straight to law school. He studied all one summer to make sure that his dream became a reality. Following the norms of the time, our young professional worked long hours each day and at least half a day on Saturday. He was active in his community and church and sincere in those activities, but if you really searched his soul; these activities tied into his understanding of the obligations of being a member of a profession in an orderly society and as such, were directly related to the practice of law. Sure, our young man likes to fish, hunt and hike or travel with his family during down time.

These too were means to the ends of recharging batteries and fulfilling the life in the profession.

The one lesson our young man did not learn from his professional mentors was how a career might wind down. Some of the old professionals actually did retire, but many practiced until their last breath. How did I arrive at this picture? It is a picture of my father.

He loved his full extended family and was devoted to us all. Looking back, I have very special memories of his showing up in some very isolated junior high, high school and even college gyms to watch me play basketball. The picture painted above is not of a workaholic who does not tend to his familial or community duties, but rather someone who so loved the practice of law that he could not imagine life without it. How does a person like that "retire?" Or, maybe the correct question is, why should they retire on their own terms?

To complete this introductory story, it is important for me to note that while my father's partners said for ten years that Dad was "failing retirement," the truth in hindsight is that he did learn from his elders and he did chart a course which allowed him to retire on his own terms. His legacy informs much of this manuscript.

WHY IS THIS TOPIC IMPORTANT?

In 2011-12, the North Carolina Bar Association's Senior Lawyers Division (SLD) led the way in exploring "Retirement with Dignity" or "Missing a Step." The SLD convened a study session in December 2011 and invited members of the medical profession, representatives of BarCARES, the North Carolina State Bar's PALS/FRIENDS program (now "LAP"), Lawyers Mutual and the Chief Justice's Commission on Professionalism. That group explored the issues which had raised the question and asked how other professions were dealing with the graying of their professions. The NCBA leadership recognized the need to address this issue, so President Mike Wells created the "Retiring with Dignity Task Force" – a blue ribbon panel of NCBA members and representatives from a number of ancillary groups – which is now hard at work. During the course of its first year, the task force was renamed the "Transitioning Lawyers Commission" (TLC).

The topic is important because in terms of the legal profession, "graying" is generally neither a negative thing nor a "problem," but when taken to the extreme, it can become one. Let's face it, none of us wants someone younger coming to us and essentially telling us that we need to be put out to pasture. We are well-educated and make our living offering advice and counsel to others. Most lawyers are classic Type A personalities; we are control freaks though generally in the nicest, most considerate manner.

The importance of this topic and its CLE-worthiness become self-evident when you examine who the Senior Lawyers Division invited to the Bar Center in December 2011. In three broad categories, the SLD invited: those who control our licenses to practice law; those who advise us on standards and practices of professionalism; and those who assist lawyers in recognizing that we are all human and that we have frailties. In my twenty years of attending CLEs (more than that if you count some I sat in on with my father), I cannot think of an ethics hour which did not touch one of those three broad stroke areas – how to protect your license, how to be a professional, and who to look to for assistance.

BUILDING ON THE PAST: WHERE DID TLC BEGIN? AND, WHAT LESSONS HAVE BEEN LEARNED?

Based upon the work done by the SLD, TLC initially identified three groups of lawyers to be assisted: (1) Lawyers who <u>need</u> to retire; (2) Lawyers who <u>want</u> to retire; and (3) Caregiver Lawyers. You may fit none of these categories or you may fit multiples. I know that there are days I may fit all three, but for now, let's work through this in the hypothetical sense of someone else's life.

A. Those who "need" to retire.

The first category, those who "need" to retire, can be further broken down. These are lawyers who are experiencing a non-healable physical disability, a cognitive impairment or emotional issues which for our purposes we may think of in terms of the loss of a spouse. If this lawyer also "wants" to retire, then the issues really center on what we will discuss in the next section. The focus for this section is the lawyer who is unwilling or unable to recognize the need to retire with grace and dignity.

From my own personal experiences in life, I can paint several examples. Before I start to do so, a few disclaimers – first, there is no specific age bias in any part of this presentation. It goes without saying that in generalities, we are discussing lawyers with "snow on the roof," but I have known 90-year-olds who, while maybe not as sharp as they once had been, were certainly capable of performing tasks related to the practice of law, and we all have known 60- to 70-year-olds who were experiencing significant issues. Pat Summit, the former University of Tennessee basketball coach, who turned 60 in June 2012 retired because her early onset Alzheimer's made it impractical (note, not impossible) for her to continue coaching in a manner she considered acceptable. Second, each example comes from my life experiences, but do not try to ascribe them to any one person as I have seen each scenario in more than one.

A. An octogenarian who has had a distinguished career, has no hobbies, and is fearful that if he does not work he will run out of money. What he does not recognize, though those working with him and around him do, is that his memory and his skills are deteriorating. Whether

there is an actual cognitive impairment or just the natural changes that come with age, he is becoming increasingly difficult to negotiate with, he is using outdated forms because "that is what I have always used," or he is wandering around the office telling tales of the good old days (some maybe less than appropriate in mixed company) and in general disrupting the work of others in the office. How do you deal with his situation?

- B. A 70-year-old with a discernible disability (physical or cognitive) which is impacting his ability to function. Pursuant to the Americans with Disabilities Act, there may be limitations on what a firm can do, but ADA does not abrogate professional/ethical issues. How do you deal with this situation?
- C. A 55-year-old lawyer begins to forget appointments, miss court dates, and exhibits behavior which is abnormal for him. What is a firm to do? Or, a paralegal/legal assistant if this is a sole practitioner?

It would be great to say "we have all the answers and here they are." However, these scenarios paint a picture of one area TLC is studying. We know that physicians have already created a program which allows them to literally take a scalpel out of a surgeon's hands if necessary. We have looked at their program. There are some who say that the State Bar can and should handle these situations. I absolutely agree with the former, but hesitate on the latter. As a voluntary bar association without licensing powers, a visit from friends at the bar seems a kinder, gentler way of intervening to find out what the problem might be. I don't know about you, but even now, when I am involved in activities with the State Bar such that a letter with that return address is not unexpected; my heart still skips a beat when I see an envelope from them.

So, one idea that arose from the Senior Lawyers Division's work and on which we have built is what an "intervention" program should look like?

THE MODEL

For purposes of putting the program in context, let's begin with a hypothetical. A well-respected and often honored member of the Greenville bar begins missing court dates or appears, but is relying upon outdated law, is cantankerous with opposing counsel, and generally "missing a step." A pattern is seen by a local lawyer (or the judge). The question is how to address the issue – is it dementia or a natural step in aging or something else? No one is sure, but concern is sufficient to try to find a solution to protect this lawyer from himself.

One interesting aspect of the timing of this manuscript as opposed to the date of the presentation is that if things go as scheduled, what is envisioned (future tense) in the first section below will either have occurred or be occurring at the time of the actual presentation. As with any new program, TLC has a well-formed plan and concept which will undoubtedly run into oddities and challenges requiring tweaks along the way, so with that disclaimer, here is the model.

TLC is recruiting approximately 20 bar leaders and volunteers from across the state to be trained as intervention team leaders. The two primary criteria in selecting this initial class are geographic location and reputational status. Those may seem odd criteria, but the team leaders need to be spread across the state in order to reduce travel time and to increase the chances that the team leader will have some familiarity with the subject attorney. And, recent experience with an unintended trial intervention reinforced the belief that those actually involved in the intervention need to come with sufficient age, experience and status to impress upon the subject attorney that some "young whipper-snappers" are not trying to muscle the subject attorney off their turf. Less colloquially stated, when a subject attorney has been identified as appearing to have started missing a step, the intervention process has a greater opportunity for success if the

intervention team has comparable experience and wisdom such that the meaning of the team's words can be given the requisite weight by the subject attorney.

The training will be conducted by HRC Behavioral in single full day (Saturday) training sessions, one in Greenville and one somewhere in the middle part of the western half of the state. The sessions will include testing, lecture and role plays to provide the team leaders with an understanding of the issues, an array of options for dealing with the issues, and with training for both the investigative phase and the actual intervention process. One key area of concern expressed from the State Bar was making certain that the volunteer team leaders were not being left on an island making physical and/or psychological assessments on their own. This training process is the first of multiple steps to insure that is not the case.

Once the team leader training is complete, the NCBA will roll out the program statewide, but hopefully in a controlled manner. Because NCBA leadership has received queries and referrals from those who already are aware of what the task force is trying to create and from others who simply are looking for assistance for a stalwart member of the bar, there is an informal list of potential subjects with which the program will most likely start. Thereafter, the program will be more fully promoted with a toll-free number to the NCBA where a trained staff person will take the call and prepare an intake form.

One decision already made is that the program will not accept anonymous referrals. The team leader and bar staff will work to protect the identity of the referral source and certainly will not publicize that person's identity, but one fear we have heard from lawyers is that the program will be used as a sword to remove disliked or aging lawyers. The first step to avoid that perception is to not accept referrals from anyone not willing to identify his/herself. Additionally,

the team leader will need to meet with and interview the reporting individual as part of the initial investigation.

Once a referral is received, the NCBA staff person will determine which team leader is geographically closest and refer the matter to that leader. The team leader will then undertake a preliminary investigation by speaking with the referral source and others to formulate an idea of what indicators are present leading to the referral. The team leader will not be charged with an exhaustive study and will be trained to determine who the best sources and resources might be in a given situation. This phase may include conversations with other lawyers in the firm, with other lawyers in the community, with family members, or with the local judge. The need for confidentiality begins in this phase in order to obtain open and honest observations from folks who might otherwise be protective of the subject.

The State Bar has granted TLC immunity as a Lawyers Assistance Program from Rule 8.3's duty to report misconduct which may come to light during the investigation. If a team leader or other lawyers participating in the intervention process become aware of professional misconduct by the subject lawyer, those individuals will be exempt and in fact prohibited from reporting those acts to the State Bar. Think of this as the "blurt" rule. In order for an investigation and potential intervention to be successful, the subject and those being interviewed need to feel free to be honest and open. A subject with a cognitive impairment is also likely to make statements without the filter necessary for self-protection. The ability to promise and deliver confidentiality enhances the opportunity for a successful process. There needs to be a high level of trust between the team leader, those the team leader might interview as well as with the subject attorney. It should be noted here that in granting LAP status to TLC, a stipulation was that neither the team leader nor anyone else who might be subject to the exemption may act

as the trustee in closing down a subject lawyer's office. This stipulation is most likely very important to judges across the state who may find themselves involved in appointing a trustee.

Information gathered in this phase will be shared with the assigned HRC consultant who will assist the team leader in: (a) discerning whether the issue appears to be cognitive in nature and sufficiently advanced to merit an intervention; (b) developing both an outline for the intervention process tailored specifically to the subject and to determine who should be part of the intervention process; and (c) what alternatives should be considered. One key is to make certain there is a support network post-intervention and that network needs to be part of the pre-intervention process.

What happens next depends upon each individual subject and situation, but here are some ideas of the available options:

- (A) Team leader will be provided through HRC with a self-administered cognitive test which can be tailored to the individual. These tests are mostly computer-based, but can be altered if the subject is not computer literate.

 Interestingly, if the subject is uncooperative, the test can be taken by the spouse or law partner and used as one tool in the intervention to demonstrate to the subject what others are seeing;
- (B) Computerized Cognitive Assessment Instead of the self-administered test, the subject could go to a clinician's office and take a cognitive test. With this option the subject would receive a consultation by a HRC psychologist or clinician to go over the results and discuss other possible clinical testing. This testing is included in TLC's program budget.

(C) Neuro-psychological Screening – "Lower level" (or initial) psychological testing would be offered to the individual if warranted by the results of either (A) or (B) above. The cost of this testing would be borne by TLC and can lead to a medical referral for more extensive ("higher level") neuro-psychological testing which would presumably be covered by subject's health insurance or Medicare. The more specialized neuro-psychological work-up is beyond the financial wherewithal of the TLC program but the intent is to get the subject to the point of a medical referral which in most instances is necessary to obtain insurance coverage for the advanced testing.

The projection is that (C) above will not be necessary for most subjects, but TLC wants the more formalized testing available, if necessary. It is anticipated that either (A) or (B) will be used with most individuals, but rarely if ever will both be used on any one subject.

Intervention is intended and designed to be firm, but clothed in the fellowship of members of the bar. The goal is to allow the subject to be part of the decision to retire and part of the process of winding down or shutting down the practice, but the program also needs to be prepared if that is not practical. The overall purpose of the program is to insure protection of the public from lawyers whose skills are eroding due to cognitive issues, while providing the subject attorney with a graceful exit keeping their dignity and reputation intact. It is hoped that being able to offer inactive retired status may provide something of an out for those who have placed their entire identity in the title "attorney" or "lawyer."

It is TLC's hope that over time the NCBA will be able to expand availability of the voluntary self-administered or lower level testing programs to all NCBA members on a purely voluntary and confidential basis. For folks like me with a family history of dementia, I would love to establish a baseline at some point and this type of testing would accomplish that goal.

Hypothetically, a legal assistant, lawyer, partner, spouse, or friend would call the assistance team and confidentially express concerns about a lawyer who might be experiencing some challenges which seem likely related to a physical or cognitive impairment. I am parsing words here because the State Bar has an exceptional intervention program for substance abuse issues and emotional/physical issues related to depression, so one of our challenges will be to define to lawyers, staff and the public how the TLC intervention program is different, to avoid confusion with the existing programs, and to make sure all lawyers have access to the assistance they need.

What happens after receipt of that call is one area we are studying carefully. We want this to be a "warm blanket" intervention process and our information/experience suggests it cannot be a one-size-fits-all program because the subject lawyers come with different forms of support systems, and some with no support system at all.

My crystal ball tells me that one issue we will have to address is the "stubborn as a mule" lawyer who refuses to acknowledge any issues, is offended by the visit, and intends to go on as he has been going. After an intervention fails, the individual will simply continue on his path and in all likelihood if there is a true problem, will encounter either his malpractice carrier or the State Bar down the road. When we discuss "retiring with dignity," the goal is to prevent a lawyer with a sterling reputation from having to leave the profession with the reputation tarnished by simply staying too long and making a critical error. At times, we may have to be persistent to crack through the veneer of denial.

There are alternatives which could negate the need for an intervention and I hope the task force will be able to create model policies or practice suggestions for law firms which would be made available through the Center for Practice Management. In no particular order:

(1) As part of a partnership agreement, there is a set age before which you essentially would have to do something clearly illegal or unethical in order for a lawyer who is a partner to be "black balled," but after that set age, the other partners or firm management reserve the right to intervene and for all intents and purposes "retire" a partner who is exhibiting behavior which might include cognitive impairment or related issues detrimental to the good order of the

- firm. As lawyers, we understand that such a provision must be carefully crafted to avoid issues of age discrimination, but my life experience tells me that such clauses generally are only enforced when there is a true issue and most often from a place of deep love and concern.
- (2) A mentor-mentee role reversal agreement: I have spoken with a number of lawyers who have voluntarily entered into or been part of a pact modeling this concept. As an attorney grows older, he fears overstaying his intellectual abilities. He sits down with a younger protégée and between them they agreed that if the younger lawyer notes slippage in his elder's ability, he will go to the elder and let him know. The elder promises in return that he will immediately retire. A number of lawyers who have been part of similar pacts and have had that conversation report that some go easily and some are hard work. I equate that conversation to taking away the car keys from my parents. It is an impossibly difficult conversation which has to be had for the good not only of the individuals involved, but for the sake of public safety (or in our case, protection of the profession).
- (3) There are some state bars which have a mandatory version of the reverse mentoring concept. In those states, lawyers must designate another lawyer ("inventory lawyer") who will be available to assist in closing down or winding up a practice should something happen to the lawyer. This is not related solely to cognitive issues, but exists to protect the public/clients in the event a lawyer experiences any sudden onset event which prevents the lawyer from serving his clients and is especially applicable to small firms and sole practitioners, though there have certainly been examples of lawyers in larger firms who had very specialized practices presenting the same challenge.

TLC intends to offer concrete suggestions, if not solutions in the coming months. If you have additional thoughts or suggestions, especially for additional alternative policies and procedures for addressing those who need to retire but are resistant, we would love to hear them. Our charge and our

desire is to develop a plan based in love, respect and concern (and I do not use the word "love" lightly) to assist our brothers and sisters at the bar in recognizing and acting on a need to slow down or step away.

B. Those who want to retire

To some, the second category seems like a no-brainer. You want to retire, so you close the bank accounts, cancel the lease and the utilities, close the door and go home. Were that life was that simple for a professional!

While the SLD was looking at the first issue fairly intently, the Solo, Small Firm and General Practice Section of the NCBA was working on a book titled <u>Turning out the Lights: Planning for Closing Your Law Practice</u>. That book is now in its second edition and is available through the North Carolina Bar Association Foundation's bookstore.

One bit of information which all lawyers considering this process need to know is that in South Carolina you can retire, while in North Carolina, you cannot "retire" per se. For now in North Carolina, to "retire" in terms of your dues and CLE requirements with the State Bar, you must be current on both and file a Petition for Inactive Status with the State Bar. What has been most interesting to those of us on the task force is the language describing the impact of inactive status which includes not being able to hold yourself out as an attorney. On one hand, it says absolutely what it has to say – you are no longer legally permitted to offer legal advice or otherwise carry out those tasks which were as normal as breathing before you filed this document, and more to the point, you may not hold yourself out as a "lawyer" or "attorney." On the other hand, as a society, we accept the concept that a preacher is a "Reverend," a judge is a "Judge" or a lawyer is a Lawyer until he dies. So, to give up the right to identify yourself as a lawyer is somewhat harsh.

The North Carolina State Bar is in the process of publishing a revision to the Inactive Status section of its rules which would create a new subsection for "Inactive Retired." In this status, you would still complete a Petition for Inactive Status, but you would designate the purpose as "retirement." When granted, the retired attorney would be able to state to individuals that he/she is a "retired attorney" or

"retired lawyer" or "a retired member of the North Carolina State Bar." The ultimate concern is that the public be able to discern that this is not a person who is authorized by the State Bar to provide legal advice.

Again, there are several scenarios which assist in focusing on the issues presented by "wanting to retire:"

- (1) the solo or very small firm attorney who wants to slow down with an eye toward retiring in several years;
- (2) the larger firm attorney who has the same desire, but faces different issues;
- (3) the attorney who wants to close the doors and walk away.

Whichever category is involved, there are three steps to consider: (1) planning; (2) process, and (3) protection.

Planning: Manuscripts generally are thoroughly researched documents written in the third person with lots of citations. This portion of this particular manuscript is informed largely from first hand, or maybe it is second hand, experiences. I learned much about this process from my dad and then had a different education during my tenure as the Wake County Bar President. Hopefully by sharing these two diverse stories, we can develop a discussion to support the <u>Turning Out the Lights</u> publication.

Walter L. Hannah was nothing if not thoroughly professional. He had watched several lawyers hang on too long. I do not know of anyone who falls in the category of having committed an ethical or malpractice breach, but I am aware of a couple of folks who fell into the earlier discussed category of wandering around disrupting the good working order of a firm. Though the actions did not diminish the love and respect the lawyers felt for their elders, it certainly tarnished the lasting image the young lawyers had of the elders. Dad was determined not to fall into that trap. But, Dad also had no true hobbies. There was no way he could envision simply going home and sitting around – and Mom would have killed him if he had done so.

So, starting around the age of 65, Dad set out a plan. The family knew the plan from the outset; the firm management learned of it around age 67 or 68. Dispute resolution was just coming to the fore, so

Dad used the five years from age 65 to 70 to get every certification that then existed for mediators and arbitrators. He worked diligently to establish a reputation not just in North Carolina but nationwide. At the same time, within the firm, he began including younger lawyers on more of his cases, or more accurately, in consultations with clients. Dad had a strong stable of clients, some on their third generation in a family. While he had always mentored young attorneys in the firm and pushed them into leadership roles, as we all do he had protected those primary client contacts. Now, he intentionally began improving the communications and comfort level between his clients and a younger (not always young) lawyer who might be a good fit to assume responsibility for the client. If a fit was not good, then Dad would slide back in and try again.

Around his 68th birthday, he informed the managing partner of the decision to "retire" at age 70 from the role of not only senior partner, but partner. Dad wanted to stay with his firm if possible as he intended to continue in his role as mediator and arbitrator, but on his 70th birthday; his plan was to shed all active case responsibility. Since he would still be around, he could obviously advise and assist as necessary, but he would not bear the normal partner responsibilities in terms of client development, maintenance and the day to day practice of law.

So as not to scare the partners of Dad's old firm, I do not know the details of their financial arrangements, but I know enough of the overall scheme to suggest that they developed a strong model for how one can slide into semi-retirement without roiling the waters for anyone. Dad was allowed an office, access to a legal assistant, had certain allowances for professional dues, CLEs, and insurance. In exchange, some percentage of his income from his dispute resolution services was paid to the firm, while he retained the balance. Dad had full freedom to set his schedule both in terms of office hours and in terms of how many mediations or arbitrations he undertook. Dad being Dad, his partners early on informed me that he was "failing retirement" because he was still working more hours than some of their full-time attorneys.

In Dad's mind, the arrangement was perfect. If he and Mom wanted to travel, he just blocked that time off his calendar so nothing was set. Otherwise, he did not charge for mileage or travel time for

state court mediations, took court appointments anywhere in the state, stayed busy nationally through AAA because of his College of Construction Lawyers contacts; and he was incredibly happy.

Ever mindful of the concept of winding down, he found that happened more or less naturally. Over time, and he did this for ten years, fewer and fewer new lawyers knew who he was so he was picked less frequently. Some of the older judges who had kept him busy with court appointments began to retire. And, I think he was fairly certain that over time, people began not selecting him simply because of his age (which he never hid).

His final retirement was fascinating because, unlike the methodical process in which he kept the family and firm fully involved in his initial "retirement," when he determined in his mind that the time had come to actually retire (as in not practice law in any form or fashion), he simply wrote the State Bar, the Dispute Resolution Commission, the Industrial Commission and the American Arbitration

Association and completed the necessary paperwork with each for his retirement, completed his inactive status petition, and shut things down. I learned of this after Dad's secretary told the managing partner that Dad's "inactive status" petition had been accepted. The managing partner called me to see if I was aware of what had transpired. Dad presented it as a done deal.

Still, the firm gets great credit for continuing to allow Dad to come in, and as his dementia appeared and after he could no longer drive, sending a runner to pick him up several days a week. He would go in, check his mail and email catch up on the news, and then go home. His absolute final retirement came during a ride home and in the form of his thanking the runner profusely for having shuttled him around and then telling the runner that he was no longer going to go to the office. The firm found out when the runner returned and reported Dad's pronouncement.

I dare say that this story provides a blueprint of how a larger firm lawyer can retire with dignity and maintain active involvement as long as possible (or more accurately, as long as he wants to and believes he can).

Process. As president of the Wake County Bar, I found, as many of you have, that the best ideas and suggestions often are presented at social events. That is where the second suggestion arose. A small

firm (as in two lawyers and this was the senior of the two) lawyer approached me to ask if the Wake County Bar offered programs on how to slow down or retire. As would be the case for many, my immediate mental reaction was, "you just do," but instead of blurting that out, I listened and then asked this lawyer to join the Membership Services Committee.

The small firm scenario is probably a more difficult nut to crack. How do you slow down and allow yourself more time off or to work less hours without either losing your clients or cutting your income disproportionately?

On this issue, the task force will spend some time and work carefully to build on <u>Turning Out the Lights</u>. There are probably some professionalism lessons to be taught and to learn as part of this process. Can an older attorney with a very small firm or solo practice entrust care of clients to another lawyer while on an extended trip and expect to get those clients back when he returns? The answer should be "yes," but we as a profession will need to work diligently to make sure that remains the answer.

Key elements to be considered include mapping out what "slowing down" can look like for a lawyer, and presumably that will differ depending upon whether the attorney's practice is primarily transactional, litigation, administrative, or dispute resolution. Does slowing down mean taking fewer clients? If so, how do you control work flow? How do you avoid signaling that you are slowing down so that clients wander off to someone else? Can you begin to volunteer with the legal aid programs in order to develop an avenue to continue exercising your practice muscles while you slow down? Both North and South Carolina have pro bono emeritus status which allows a lawyer on inactive status participate in legal aid cases under the oversight and supervision of a legal aid attorney.

I have seen this done relatively well by several senior attorneys who still do some work, but far less than they used to. As an example, let's consider a lawyer who about ten years ago, as he entered his 70s, parceled out most of his corporate and litigation clients to young lawyers he trusted. He kept most of his wills and estates clients and continued efforts to make sure folks knew he was still around and available to do that type of work. He "retired" to the beach and closed his office, but worked out a deal that allowed him office space in a small firm and access to a legal assistant for which he paid. He worked

from mid-morning Tuesday to early-afternoon Thursday, and then headed back to the beach. His income was significantly reduced, but not cut off. His clients knew his schedule and being older themselves were more than willing to work with it.

One other concept you will hear discussed is "reverse mentoring" where an older lawyer with a solo practice pairs with a young attorney just starting out on his own. As referenced above, the young attorney may agree to handle clients when the seasoned attorney is on vacation or otherwise occupied. In exchange, the seasoned attorney acts as mentor and support for the younger attorney answering the occasional question and/or reviewing the occasional document. The hope being that a reciprocal relationship will develop such that the seasoned attorney will gain trust in the younger attorney to offer advice and even support if the seasoned attorney feels the need of some assurance and over time, their roles will reverse such that the seasoned attorney can continue to practice even if he is missing a step because he has the safety net of the younger attorney reviewing the work. Such an arrangement may even result in a sale of the elder's practice to the younger — a process made clearer and easier by a recent revision to Rules of Professional Conduct, Rule 1.17 governing the Sale of a Practice in North Carolina.

There are many other examples, but the key seems to be to use this transition period to learn what works best for you in filling the time not spent at the office. For some lawyers, that is a very easy process as community involvement and work with nonprofits quickly fills the gap and ultimately provide a smooth transition completely away from the practice of law. For others, the loss of a spouse during this period can reverse the process as they move back to the office as a means of filling the time and avoiding loneliness.

Understanding this critical period and developing educational courses to assist lawyers in planning this phase constitute another area on which the task force will be concentrating in the coming year.

Protection. A concern the task force needs to work through, relying at least in part upon the resources and experience of Lawyers Mutual or other malpractice carriers, is how to properly and adequately protect a lawyer trying to retire. Our profession is one of deadlines and pitfalls. Any plan or

process for slowing down and ultimately retiring is going to require consideration of how to protect that lawyer from either grievance or malpractice issues. Presumably, and maybe this is personal bias born of a love to travel, a lawyer who wishes to slow down and begin working into retirement, intends to either travel or devote significant time to something else. Both options are pleasurable to simply consider, but the concern that arises is that both stand to constitute significant distractions.

Even the laid back world of dispute resolution comes with deadlines for completion of mediations or arbitrations. Estate planning or estate administration generally offer less stringent deadlines, but to be blunt, if you are slow preparing wills, trust documents and/or related documents, there could be serious consequences – think incapacity or even death before the documents are executed.

The process of working out protocols for slowing down needs to determine how the attorney will handle communications with clients, with opposing counsel, and with the courts. What will the office look like? If you are working fewer hours, what will staff needs look like? How will you handle technology?

Continuing the concept of retiring with dignity, what does that look like in terms of ultimately closing your office? How do you notify your clients of a pending retirement? What are your obligations to the State Bar? Do you want to surrender your license or keep it active, just in case? Would "inactive status" work for you? There are multiple considerations many addressed in <u>Turning Out the Lights</u> and the State Bar is also a great resource to assist in the process. Hopefully, TLC will be able to develop additional resources, spell out options, and suggest procedures.

Finances. Another area which has developed as the task force has undertaken its work is the stark reality that for some lawyers wanting to retire, finances may be an apparently insurmountable obstacle. To that end, author Michael Long, in his book <u>Lawyers at Midlife: Laying the Groundwork for the Road Ahead</u>, provides numerous worksheets and articles to assist lawyers in preparing themselves emotionally and financially for the phase of life which comes after an active legal career.

As we all probably recognize, those lawyers who experienced the Great Depression often fear that their money will run out before they do. I know with my mother there is no amount of reassurance

that can keep her from being convinced that she cannot afford to live in her retirement center, that they are going to put her out one day and she will have nowhere to live and no money on which she can live.

That fear was true with her mother and most others of that generation I have known, even when the reality is and was that they are well set for however long they might live. With that mindset, the idea of voluntarily cutting off the one source of income you have ever had is no doubt daunting.

This will continue to be a concern with the Baby Boomers. As I have jokingly told a number of folks, this is not sexism, but biology. I know of a fair number of my male peers who have begun a second family at or after the age of 50. Pure math tells us that those lawyers will be paying college tuition through at least the age of 70 and for some, beyond. My personal reference, my parents, is that the bulk of retirement savings are accrued after the kids are out of college and before the age of 70 when most begin to slow down. The potential issues therefore become self-evident.

Using this scenario as a guide, the task force is exploring means of utilizing continuing legal education as an avenue for financial planning education and ideas. We will continue working with the North Carolina State Bar's Continuing Legal Education Committee to ensure credit for these types of program which at first blush would not appear to meet the criteria for CLE credit but clearly will become professionalism and practice issues in the years to come. The North Carolina State Bar has also been studying retirement issues and it appears they too recognize that financial planning literacy truly is a CLE-worthy topic in order to protect both lawyers and the public.

C. Caregiver Lawyers and Staff

Until the onset of my father's dementia and the role reversal it initiated, I must admit that I had given absolutely no thought to the existence of this category. Now, it is an area of great interest and focus for our task force since virtually all on the task force members either are currently in the role of caregiver or have been in the very recent past.

The "caregiver lawyer" is the lawyer who is parenting his parents or another elderly or infirm relative. In the age of continuing care retirement communities, this burden can be eased somewhat,

assuming the relative will consent to move. In any event, there is an entire generation of lawyers facing this dilemma and the reality is that each succeeding generation will also have to deal with these circumstances.

First, what are the "circumstances?" Looking back not terribly far in history, children generally lived fairly close to their parents and it was the norm to move an elderly or infirm parent into a child's house when "that" time arrived. Several things have conspired over the past fifty years or so to alter that norm. Post-World War II, the world became a smaller place and it became far more common for children to settle some distance from "home." As diet and healthcare improved, life expectancies have increased, though quality of life in the last years has not always kept up. And, more and more households are two income families meaning there is no one at home to provide continuous care.

As an outgrowth of these societal changes, the economy has seen the development of senior care facilities ranging from continuing care facilities offering care starting with independent living quarters continuing until the end of life. There are specific facilities for Assisted Living, Skilled Care, and the growing area of Memory Care. The old-fashioned "nursing home" still exists, but what exists to a greater extent is the perception that all senior care facilities are like those old-fashioned "nursing homes." Some seniors go happily and willingly into the high end continuing care communities, while others go kicking and screaming, if they will go at all.

What does this have to do with lawyers? The reality is that you find more and more lawyers and staff in law offices who need flexibility in order to care for their elders. Again relying upon my personal experiences and observations, it is somewhat amazing to realize how many people are fitting journeys of various distances into their normal routine in order to deal with a parent with dementia or with a terminal illness or simply growing older.

How does a law firm address this need? I have told many people in the past few years what a blessing I found in my law firm. We worked out several safeguards in the form of processes which allowed me to maintain my normal practice while resting absolutely secure in the knowledge that if at any time I needed/need to go to Greensboro to deal with something related first to Dad and now to my mother,

I could do so without fear of a catastrophe at the office. We set up a combination of second lawyer back up for every case, with staff support such that when I got the call to come home as Dad failed, I was able to simply set my out of office on the email, change my voicemail, send a quick email to the office letting them know I was gone. Within fifteen minutes after the call, I was out of the office. Thereafter, I had to answer a very few email queries and otherwise was able to concentrate on family.

From this experience, I have recommended to the task force that we develop model policies, procedures and options for law offices with CLE programs to share these ideas. There are two identified areas for exploration: work-life balance for the caregiver and considering the differing needs for solo, small firm, and large firm lawyers.

In terms of work-life balance, the considerations involve what can be done to assist the lawyer or staff member in developing this balance in the new circumstances they face. While the most obvious concern is for the physical and emotional well-being of the individual, there also needs to be consideration of the potential impact on work performance. A distracted worker is more likely to allow errors to creep into work product. In the case of an attorney, making sure that the legal assistants and paralegals are willing to raise questions and otherwise support the attorney is essential. When the caregiver is a paralegal or legal assistant, the reverse needs to be true and overall staff needs to be supportive and prepared to assist from time to time. Every firm operates in its own fashion, but hopefully the task force can develop suggestions, policies and a checklist.

What has become apparent in early discussions of the issue of caregiver attorneys is that there are vast differences in the type of support that may be needed or be appropriate. I used my personal experience as an example of what worked well for us. That is because my firm is smaller in size. It is large enough to provide several attorneys to share the load and we all do much the same type of work which made sharing the load easier. In larger or smaller firms where lawyers may work in more of a silo, firms need to think about plans for how to assist an attorney serving in a caregiver role; anticipating the needs of that attorney such that when the inevitable emergency arises, there is a plan in place which allows the attorney to deal with the emergency without having to be in constant contact with the office or

clients. Who will contact the court(s) if necessary? Who can handle hearings, or depositions, or mediations? Many larger firms have some form of section system, so as the task force works through this process, we can hopefully gather feedback and work on suggestions.

Solo and very small firms are, at first blush, the bigger concern in terms of the task force developing programs dealing with caregiver issues. How does a sole practitioner or a boutique firm lawyer drop everything with little warning and leave? What might be done to support the lawyer and provide the breathing room to deal with the crisis in the family without having to constantly deal with fires from the office? How much pre-planning and pre-thought can be put into place and is this where the task force can be of the greatest benefit? These are all issues to be addressed. There are no answers, yet. These are considerations for the profession as a whole. Emergencies by definition arise without warning. However, if the task force can raise awareness and make suggestions, then lawyers and law firms may be able to provide better support in those situations where emergencies can be anticipated (i.e. where the caregiver attorney or staff member is dealing with a prolonged situation where bumps in the road are expected).

III.

THE CRYSTAL BALL: WHAT IS IN THE FUTURE?

Lawyers by nature are helpers and control freaks all rolled into one. We nurture and advise others, offer a shoulder on which to lean, and an ear with which we listen. Depending upon practice area, we tenaciously defend the rights of our clients or we support them in times of need. What we are not very good at is taking care of ourselves. While some are quite capable of calling it a career and walking away, others have such a true and abiding love of the law, they have no idea how to walk away. They turn a blind eye to or rationalize away the inevitable issues that arise with age. Note the switch from "we" to "they," it slipped in without my realizing it. Time will tell whether the author is a "we" or a "they."

The hopeful outcome for TLC's work will be a functional program along the lines of the intervention/testing program described herein. We have acquired a vast amount of information from

other groups and other bars and find ourselves homing in on the issues related to aging in our profession. We know the baby boomers are not just coming; they are here, in terms of reaching what is considered retirement age in most industrialized nations. The key will be to continue working to identify issues, not just those set out herein, but others which come to light as we undertake our work. Once an issue is identified, the task force needs to set about finding concrete suggestions and programs to assist in addressing the issues.

Notice that the word "solution" is not used much in this manuscript. The issues the task force is charged with identifying and addressing are not issues which can be solved if "solved" is defined as eradicated. Rather, the issues will always exist; will have mutations, variables, and multipliers. So, the task force seeks to identify, address, and educate. We will be leading horses to water and praying that with sufficient impetus, but without force, they will choose to drink.

Interestingly, as our work continues, we are finding points where the State Bar and NCBA need to work in concert to advance the ball and protect both the profession and the public. The voluntary bar is in a position to offer the hand of friendship and support as a benefit of membership in the organization and also a hand to all those in the profession, members or not. The NCBA can offer testing, counseling and diagnostic services either as a membership benefit or at reduced rates. We can offer educational programs and practice management ideas to prepare not just those currently facing this issue, but also future generations, for that inevitable point in the future when it is time to turn the page and begin a new chapter of life. The voluntary bar cannot however force anyone to do anything.

The mandatory bar offers the hand of friendship and programs which can intervene, but they also hold the power of the license. As indicated earlier, it is imperative that the two groups work in concert to protect the profession and the public. TLC is working with the LAP program with the idea that each program will receive referrals better served by the other program. The intent is for cross-referrals.

To the extent you see other issues, or have thoughts about possible means of addressing these issues, my mailbox is always open and my telephone is always on, as are those of the other members of the task force as well as the NCBA leadership.

And for those in South Carolina, your State Bar is a combined entity which changes some of the dynamics set out in this paper. In some places (retired status most specifically), South Carolina is ahead and I have shamelessly borrowed your rule and forwarded it to the North Carolina State Bar. In terms of pondering retirement issues, my understanding is that bar organizations across the country are all in somewhat of the same boat. The NCBA intervention program may be cutting edge, but the ideas as to how to retire on your own terms have no state lines. What is critical for everyone is: (1) to acknowledge that there is an issue; (2) begin the process of educating yourself and others about the issue; and (3) plan for your future and if you are in a firm, for the future of your firm. We are all going to age, some faster than others and all in our own way, but given the number of Type-A personalities involved, controlling the process of retiring seems an imperative.

RETIREMENT ON YOUR OWN TERMS:

WHAT DO YOU DO WHEN ALL YOU HAVE KNOWN IS A LOVE OF THE LAW?

WHY IS THIS TOPIC IMPORTANT?

A DAUGHTER'S STORY

CHANGES IN THE PROFESSION

- National concerns about not just aging, but cognitive impairments with gradual onsets
- Changing economics of the law practice
- Changing societal demographics
- How many lawyers over the age of 50 do you know with children under 10 years of age?
- What does this mean for their financial ability to retire at 65 or 70?
- How many lawyers over the age of 70 continue in active practice?

SC BAR MEMBERSHIP BY AGE		
20-29	1,027	
30-39	3,569	
40-49	3,594	
50-59	2,968	
60-69	2,562	
70-79	753	
80-89	206	
90-99	55	

SO, IS THIS AN AGE THING?

"Pat Summitt's Early-Onset Dementia: Lady Vols Coach Resigns Less Than A Year After Diagnosis"

- Huffpost Healthy Living, April 18, 2012

"I've loved being the head coach at Tennessee for 38 years, but I recognize that the time has come to move into the future and to step into a new role." Summitt to AP, April 18, 2012 (Retired just before her 60th birthday)

"COACH REVIVES TEAM, FIGHTS FOR HEALTH"

- Diagnosed at 36 with early-onset Alzheimer's
- Had to give up his job (\$90,000/yr)
- Now 44, living in Charlotte area coaching Butler H.S. Soccer Team (\$2,877.60/yr)
- Disease progressing: "Eventually I'm going to lose. It's a fact. I'm still winning. I'm fighting. I'm winning the battle right now."
- Raleigh News & Observer, October 3, 2012

"DIAGNOSIS OF EARLY ALZHEIMER'S FORCES CHIEF JUDGE TO RETIRE"

- "Williams' eldest daughter, . . ., said yesterday that her mother made a wrenching decision to leave a job she loves but did so promptly after her diagnosis to make sure she retired before any of her opinions could be questioned."
- -- <u>Washington Post</u>, July 10, 2009 referring to the sudden retirement of Chief Judge Karen Williams at age 57 (from Orangeburg, SC)

HISTORY OF NORTH CAROLINA BAR ASSOCIATION ACTIVITY

Senior Lawyers Division (2011-12)

Solo, Small Firm, General Practice Section

- Retirement with Dignity
- Missing a Step
- Consulted other professions
- Consulted other organizations
- Drew road map

Practice Section Turning Out the Lights

RETIRING WITH DIGNITY TASK FORCE

- Initiative of President Mike Wells in 2012
- Blue Ribbon Task Force
- Purpose: Build on the work started by SLD and SMOLO/GP Section and create active projects to address issues raised

TLC - TRANSITIONING LAWYERS COMMISSION

- What's in a name?
- Everything!
- Broadened scope of project

WHO IS TLC HELPING?

- Lawyers who <u>need</u> to retire, but do not acknowledge or recognize it.
- Lawyers who <u>want to retire</u>, but are not sure they can or how to go about it.
- Caregivers (Lawyers and Staff)



LAWYERS WHO NEED TO RETIRE

HYPOTHETICALS:

WHO?

- Octogenarian Distinguished career, no hobbies, fearful that he will run out of money; Skills slipping, memory strong, becoming irritable and verbally aggressive with opposing counsel and staff.
- 70-something Discernible disability is impacting his ability to function
- 55-year-old forgetting appointments and court dates, exhibiting behavior which is abnormal for him

OPTIONS AND IDEAS

Existing

- Lawyers Assistance Program - SC State Bar
- Professionalism Support Initiative – NC Chief Justice's Commission on Professionalism

Ideas

- Transitioning Lawyers Commission (TLC)
 - Intervention Program
 - Trained volunteers
 - Friends
 - Supportive
- Policies and Procedures
- Education

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WHAT DOES INTERVENTION LOOK LIKE?

- Warm Blanket Concept
- Assessment/Testing Component
- Medical/Psychological Professionals Involved
- Modular
 - Family
 - Friends
 - Colleagues
- Confidentiality (Code of Professional Responsibility)

POLICIES AND PROCEDURES

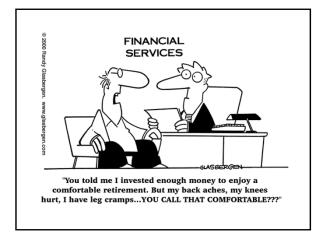
- State Bar: Encourage review of policies and rules for concluding a career
 - NC State Bar circulating rule change to add "Inactive Retired" option
- What options exist besides the full grievance process?
- Law Practice Management
 - Compile suggested clauses for partnership agreements
- providing for winding down/closing down of practice

 Create sample policies for firms dealing with lawyers, paralegals and staff in caregiver roles

IDEAS - HOW TO ADDRESS THE ISSUE IN ADVANCE

- AKHH&F Model (Date Uncertain)
- Firm Model (Date Certain)
- Protégé Model

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THOSE WHO WANT TO **RETIRE** HOW TO . . .

HOW CAN WE HELP?

Existing

• Turning Out the Lights

Future

- Planning
 WLH Model
- Process
 "User's Guide for Turning Out the Lights
- Protection
- Work with Malpractice Insurance Carrier (Tail Policies)
- Create Checklists for considerations in slowing down
- Reverse Mentoring Sell Practice and then ease out

CAREGIVERS	
SUPPORT	

WHO? WHAT CONCERNS?

Lawyers

Staff

- Case Coverage
- Time
- Stress
- Personal care
- Time especially time off
- Stress
- Case coverage
- Costs (mental, physical and financial)

WHAT IS AVAILABLE NOW? RETIRING WITH DIGNITY

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EMERITUS PRO BONO STATUS

- Two Step Process which allows "retired" attorney to provide assistance and advice to legal aid qualified individuals.
- Designed as a "reverse mentoring" concept

STEP ONE: INACTIVE STATUS PETITION

- Must be up to date on all dues, assessments and fees owed to NCSB
- Remain subject to Rules of Professional Conduct and disciplinary jurisdiction of NCSB
- Must have withdrawn from all representations prior to effective date
- Dissolve or amend filings with Sec. of State re professional organizations (firm)
- State reason seeking inactive status

EFFECT OF INACTIVE STATUS

"As long as your membership status is inactive, you cannot practice North Carolina law, including giving advice regarding NC law, or serving as a judge in any tribunal that requires an active NC law license for such service. It also prohibits you from serving in an "of counsel" capacity to any NC law firm or professional organization. You are also prohibited from holding yourself out as a 'lawyer', 'attorney', 'attorney at law' or any other designation that implies that you are an active attorney who can provide legal services in North Carolina."

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STEP TWO: PETITION FOR EMERITUS PRO BONO STATUS FOR INACTIVE MEMBERS

- Name of petitioner (inactive status) and contact information;
- Name of "Responsible Lawyer" employed by nonprofit corporation qualified to render legal services; agrees to "supervise" petitioner

WHAT IS THE FUTURE? THE CRYSTAL BALL

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GLASBERGEN

"The bad news is, the market threw a wrench into your retirement plans. The good news is, you can probably sell the wrench for \$10 on eBay!"

INTERVENTION/TESTING

- Primary goals:
 - Friends helping friends
 - Medically supervised intervention process for those who need to retire
 - Protect well-respected lawyers from themselves and a less than graceful exit at the end of an otherwise stellar career
 - Provide initial testing free of charge with medical referral for neuro-psychological testing (such that insurance should cover)

INTERVENTION/TESTING

- · Companion Goal:
- Developing a model program with BarCares (Human Resource Consultants) to offer baseline cognitive testing as a NCBA membership benefit
- Developing plan to make available for a fee more in-depth cognitive testing for NCBA members (voluntary)

EDUCATION

- Creating educational programming addressing the various issues identified including cognitive impairment, retirement models, financial planning, professional issues, . . .
 - Developing modules (15-20 minutes in length) which can be combined into a one hour or longer CLE meeting the NC State Bar guidelines for mental health credit
- Developing modules to be utilized with Center for Law Practice Management
- Produce and/or cooperatively produce retirement planning CLE programming

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EDUCATION

- LPM modules will include support for <u>Turning Out the Lights</u>
- Working with Lawyers Mutual to create additional modules regarding malpractice/risk management issues related to retirement process
- Working on ideas for support of caregivers

OTHER COMMITTEES/SECTIONS

- Anticipated that TLC work product will generate ideas and "work" for existing committees (like Quality of Life and Law Practice Management)
- Will seek additional input from committees and sections in second year of task force work
- Hopefully will spark discussions and additional ideas within existing committees/sections

DO YOU HAVE THOUGHTS OR SUGGESTIONS?

- Best means of contact is to e-mail Nan at:
- nhannah@hslc-law.com