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*From the ACBA*

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## Elder Law Practice May Evolve Dramatically in the Next Decade

By

**Paula P. Tchirkow, MSW, LSW, ACSW**

Because of a rapidly expanding client base—as well as relatively greater affluence among those clients—the practice of elder law may become one of the fastest changing areas of legal specialization in the coming decade.

The principal reasons for this expected change are simple—numbers and dollars. In terms of numbers, America’s elderly are a rapidly swelling demographic group.

Today’s elderly are living longer and more active lives than their counterparts did just 10 or 20 years ago. In fact, the age group 85-and-older is the fastest growing population segment in the United States.

Financially, today’s elderly—and those who will reach that status in the next decade—are considerably better off. That means the estates and assets of elder clients will become more substantial as time goes by. And that means legal services to manage and protect those assets will become more complex.

Lawrence A. Frolik, Professor of Law at the University of Pittsburgh School of Law explained that today’s elderly—unlike their parents—earned their living during the post-World War II era of high prosperity, labor unions, comprehensive pension plans and a host of other financial considerations that produced greater income and more assets.

At the same time, he said, these elderly—as well as their children—are becoming more sophisticated about legal and financial matters, and have higher expectations about what can and ought to be done to best serve the elderly client and the client’s family.

Asked to comment on likely future changes in elder law practice, Frolik said, “Actually, the future is here, now, in Allegheny County. Because of the numbers and percentages of elderly people living in this region, elder law attorneys here are experiencing the trends that will develop later elsewhere, in regions that have more traditional demographics.”

## **Multidisciplinary Practice And Elder Law**

One of the hot topics in the evolution of the practice of law is the development of the so-called “Multidisciplinary Practice.”

Bar Associations in Philadelphia and Boston already are formulating policies to support the concept, which features non-attorney professionals from various disciplines formally partnering with attorneys in law firms. The idea is to provide specialized, one-stop service for clients with particular needs.

To many, it seems like an idea whose time has come. And the concept seems especially applicable to the practice of elder law where the client’s overall needs can be extraordinarily complex.

Though relatively new to the legal arena, multidisciplinary practice long has been a feature of leading-edge medical care. A heart transplant team, for instance, may include a cardiothoracic surgeon, a cardiologist, a medical social worker, an anesthesiologist, a pharmacologist, specially trained nurses and other professionals to help assure that every possible skill is available for the patient’s needs.

Legal service to the elderly may very well benefit from having a similar team capability.

The elderly depend more and more on the special skills of elder law attorneys to design and implement legal and financial strategies to help assure that the oldest—and often most vulnerable—citizens get the most out of their latter years.

The legal profession has responded admirably to these developments since the 1980s by creating professional training and certification mechanisms that make elder law a respected, lucrative and growing specialty. For example, The National Academy of Elder Law Attorneys, Inc. is a leader in this respect.

## **Geriatric Care Managers As Potential Elder Law Partners**

During this same era, managed health care has helped to evolve a new breed of social worker to specialize in geriatric concerns—such as determining the best place for the elderly client to live, how best to obtain needed health care, and how to focus the interests and concerns of the client’s family on getting the job done.

Prepared at the Master’s Degree level in social work, licensed and accredited, and armed with extensive gerontology knowledge and practice, these professional elder advocates are called Geriatric Care Managers. And because of their special qualifications, they can play an essential role in partnership with attorneys in simplifying the social and medical fact-finding and resource identification processes that contribute to an optimal outcome.

## **The Local Picture**

Attorney Jim Nowalk, based in Whitehall, is former counsel and executive director for the Allegheny County Kane Hospital system and an expert in the full range of elder law

concerns. Attorney Nowalk says, “The geriatric care manager can be an invaluable member of the multidisciplinary team that serves an elder client.

“Certainly there are legal, social, medical and family issues involved in providing the best possible service and care when the client is elderly. And the legal profession is well-attuned to those special requirements. That’s why we have the National Academy of Elder Law Attorneys and the Allegheny County Bar Association features its own Elder Law Committee.

“Although the services of a traditional social worker can be helpful in sorting through the client’s and family’s needs and options, a geriatric care specialist can be a more valuable member of the team. The geriatric care manager is in the trenches, so to speak, paying close and constant attention to the various ever-changing programs and policies that may affect the client.

“Unfortunately—but not surprisingly—clients and their families don’t always have the facts straight about the variety of complicated legal, insurance, inheritance and health care concerns. Depending on the client, the geriatric care manager can be the “eyes and ears” that the attorney needs to get at the reality of the situation and implement the best possible arrangement for the elder client.”

Attorney Frank A. Petrich is a Certified Elder Law Attorney in Mount Lebanon who has pursued extensive training and continuing education to fine-tune his skills to meet the needs of an elderly client. Petrich also has other rare skills and experience—he is a Certified Financial Planner and spent a substantial part of his career as a senior executive in a major metropolitan hospital.

According to Petrich, “There is certainly a valuable role for the geriatric care manager in assembling team expertise, especially for the more complicated and unusual elder law cases.

“I’ve heard these working arrangements called by several names, but I prefer the term “strategic alliance” for describing the collaboration of attorneys and geriatric care managers on a case-by-case basis. Because both the elder law attorney and the geriatric care manager have unique and highly specialized skills, together, they can accomplish so much more for the client and the client’s family than, say the ‘family lawyer’ or a traditional social worker.

Petrich adds, “I don’t know of any law firms currently that have a full-time geriatric care manager on-staff, but I can foresee that happening in the future in law firms that specialize in elder law as the role and expertise of the geriatric care manager continues to be better understood.”

### **Advocating For The Elderly Client**

Particularly in the case of an elderly client where dementia or Alzheimer’s disease may complicate an accurate assessment of financial and other issues, the geriatric care manager has the skills to assess competency and clarify the client’s true situation,

simplifying and streamlining the attorney's preparation and implementation of major changes, such as power of attorney and guardianship.

At other times, the elderly client may be involved with adult siblings, adult children or other interested parties who have agendas of their own and who might be influencing the client toward decisions that are of questionable merit.

In such cases, the elderly client needs an objective advocate who can state to the client's family and to the client's lawyer the relative benefits of altering the client's lifestyle and day-to-day activities.

### **History Of Geriatric Care Management it's not really a history though**

Geriatric care for the past decade has grown increasingly complex because several major trends are occurring simultaneously. First, people are simply living longer and, consequently, becoming subject to more of the health, financial, social and everyday problems that affect the elderly.

Second, essential health care, under the structures of managed care, is becoming ever-more complicated and confusing for lay consumers, whether they be then elder clients themselves or well-meaning children and friends.

Finally, adult children—traditionally the principal supports for elderly parents—are more mobile than ever before, maintaining the parent-child relationship primarily via telephone.

The role of the professional geriatric care manager has evolved in response to all of these forces.

For example, on the healthcare front, many elderly individuals who have become accustomed to comprehensive and generous health benefits derived from labor union-negotiated packages in the 1960s and 70s, are baffled by managed care. Concepts like a gatekeeper primary care physician, coupled with multiple care settings, such as home care, outpatient and skilled nursing, often are confusing to individuals who grew up using minimal health care and expecting to simply "go in the hospital" when they become seriously ill.

Not only is the health care paradigm confusing, the multitude of health benefit choices, wrap-around policies and other sophisticated financial instruments now on the market add to the difficulty many elderly people experience when attempting to manage their own affairs.

Professional geriatric care managers are paid providers who work for the geriatric client—not the provider institution—to coordinate and supervise healthcare, financial planning and other critical lifestyle decisions on the client's behalf.

Performing in a relatively new field, professional geriatric care managers work under the standards of practice developed by the 1,200-member National Association of Professional Geriatric Care Managers, based in Tucson, Arizona.

Typical services provided by geriatric care managers include assessment, consultation, selection and monitoring of appropriate home care services, linkage to community support and entitlement programs, nursing and personal home care placement, caregiver support and counseling.

Although geriatric care managers see themselves primarily as advocates and managers for their clients, they are partners with the client's total care team—including attorneys, bankers, financial planners, physicians, other health professionals, insurance agents and other individuals who impact the client's life and quality of life.



Paula P. Tchikow, MSW, LSW, ACSW is president of Pittsburgh-based Allegheny Geriatric Consultants which specializes in geriatric care management for the elderly and chronically ill middle-aged adults. Ms. Tchirkow is a frequent advisor to attorneys, physicians, financial planners and bank trust officers on elder care issues. Her services include comprehensive assessment, caregiving, guidance, counseling and management of in-home and community services. She can be reached at 724-449-5828, her website, [www.caregivingadvice.com](http://www.caregivingadvice.com) or by email, [Paula@caregivingadvice.com](mailto:Paula@caregivingadvice.com).