

Sixty is the New Forty: Positive Aging and the Challenge Facing Elder Law Attorneys

By Alex L. Moschella, Esq.

A recent New York Times article froze me in my tracks. The article stated that the first wave of baby boomers turned sixty in 2006. I realized that I also fit this description, along with many of the children of the clients I have served throughout my thirty years as an elder law attorney.

It is widely accepted that baby boomers at age sixty function and act as if they are forty. However, there is no question that the stereotypes that exist toward our aging population are a challenge for the baby boomers to overcome. The phenomenon of positive aging is something we all need to embrace. Chronological age does not measure one's ability to function and maintain an active and engaged lifestyle. Whether age sixty plus or eighty plus, we continue to further our goals and pursuits of positive self-development.

Similarly, elder law attorneys must fight the stereotype that they only deal with an aging population that is incapacitated and on the verge of entering a nursing home. While elder law attorneys are uniquely qualified to navigate the maze of government regulations for Medicare, Medicaid, and Social Security program, they also understand the evolving nature and dynamics of the baby boomer population. Since many of us have aged with our clients, we now face the same issues as many of our clients. *How do we grow old? How do we plan for and define our retirement goals? How do we pay for long-term care if ever needed?*

To fully embrace this aging phenomenon that sixty is the new forty is to realize the baby boomer population is often struggling to deal with complex issues concerning their own

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personal, financial, and estate planning needs, as well as the more crisis driven issues and needs of their aging parents. Elder law attorneys are prepared to serve the needs of the baby boomers, as well as their aging parents. The dichotomy of serving both ends of the aging spectrum is one of the greatest challenges facing elder law attorneys. Pre and post-retirement issues must be addressed, as well as the more complex and difficult issues of long-term care planning.

The dynamics of elder law are now placed on a continuum of services. Legal planning is driven by the mindset of a new generation that will retire later in life because they must work longer. We are the spending generation. We often have not planned nor saved adequately for retirement. The baby boomers are often two-income families, stretched thin by college tuition and the tapping of home equity to pay for college education, credit consolidation, the purchase of second homes, and other major expenditures. New challenges await us in retirement so we can be fully engaged in new experiences and interests.

At the core, the sixty plus population must deal with their own personal goals relative to retirement planning, probate avoidance, estate and tax planning to avoid onerous estate taxes, as well as planning for the children and grandchildren's future through the use of gifting and trust strategies. The complex nature of the sixty plus generation's future financial and estate planning needs draws on the skills of elder law attorneys.

As part of the total estate planning process, the elder law attorney will also assess the need for long-term care insurance. The complexity of evaluating and investigating long-term care insurance is a very different process than for our parents' generation. For the baby boomers, long-term care insurance can be considered an asset for the future. We look at the product from the point-of-view of an investment and a return of premium.

The new wave of the sixty plus generation brings a whole new focus on product use and marketing developments from companies who recognize that the baby boomer market is a

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growing industry. There is a whole new set of concerns relative to housing issues and aging in place. Many older Americans, who in the past wished to remain in their homes as they aged, may now want to consider other housing options. As baby boomers downsize or pull equity out of their homes for many reasons, their hopes and aspirations are quite different from their parents' generation.

The future of positive aging awaits us. The challenge for the sixty plus generation is to continue to break down the barriers towards ageism and define new avenues, so that positive aging is embraced and pursued on all levels. An elder law attorney is uniquely equipped to deal with the changing legal needs of the baby boomers as they continue to age positively.

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