



25TH ANNIVERSARY
MCLE SPECTACULAR!
Friday, November 22, 2019



The CCCBA Senior Section proudly presents...

#4 Leaving Your Law Practice and Keeping Your Sanity" - How to Create a Successful Transition Plan

Lee C. Pearce - Law Office of Lee Pearce

Lorraine M. Walsh - The Law Office of Lorraine Walsh

Dr. Peter Opperman- Clinical Psychologist

AGENDA

1. Introduction of Speakers - Opening remarks
2. How to Create a Successful Transition Plan
(Before, During and After Your Planned
or Unplanned Departure from the Practice of Law)
 - a. Ethical Considerations
 - b. Practical tips and guidance
 - c. Psychological Issues
3. Questions for Speakers

CCCBA 25th Annual MCLE Spectacular-Seminar #4
"Leaving Your Law Practice and Keeping Your Sanity"
How to Create a Successful Transition Plan

SPEAKERS

Lee C. Pearce has been a member of the California Bar Association since 1975. He was a member of the first class of Certified Family Law Specialists in 1980 and has limited his practice to divorce mediation and litigation since then. In 2002 he elected to further limit his practice to neutral work as a divorce mediator and private judge. He is a founding director of the CCCBA Family Law Section and its first President. He was a director of the Section for over 22 years, served 3 times as President and has also assisted in drafting the local court procedures.

Lorraine M. Walsh is an attorney who has practiced in California for 37 years and maintains her office in Walnut Creek. She is a State Bar Certified Specialist in Legal Malpractice law and handles controversies involving attorneys and clients. She also serves as an expert consultant and witness in legal malpractice actions. As a member and Chair of the State Bar Mandatory Fee Arbitration Committee she trained attorneys throughout the state to serve as fee arbitrators for local and the State Bar program. Currently she is the President/Chair of the newly formed CCCBA Senior Section.

Dr. Peter Opperman has specialized in clinical psychology and psychotherapy for over 31 years with his office in Walnut Creek. He earned his undergraduate degree in Psychology from UC Santa Cruz and subsequently obtained his PhD in 1988 from the Wright Institute in Berkeley. He has devoted much of his career to the care of the elderly as a consultant to retirement homes and skilled nursing facilities. He provides evaluations, counseling and support to seniors and physically and mentally challenged individuals. He frequently speaks on such topics as "how to age successfully" and coping with dementia and depression.

GETTING OUT OF THE PRACTICE

November 2019

Ethical and Practical Issues

PART ONE – Making the Decision

- A. Why lawyers don't plan for succession, whether intentional or unintentional
 - a. Preparing for the unintentional termination of practice
 - i. Health, death, disbarment, appointment to the bench, etc.
 - ii. Making an exit plan and keeping it current (and accessible) Who will carry it out? Do they know it? Do they know where it is?
 - iii. Why shouldn't I just leave that for my heirs to figure out?
 - iv. State Bar "Agreement to close law practice in the future" (16 page protocol)
 - b. How do you know when it is time to go? (Hint: most lawyers blow this one)
 - i. Physical
 - ii. Psychological
 - iii. Peer/Partner intervention
 - iv. Cognitive screening test (SAGE Test) on State Bar website
 - c. Creating a conscious exit strategy – you can't know "how" until you know "why"
 - d. Why do you want out? What does "getting out" mean to you? Take a clean legal pad and write all your reasons
 - e. Ask yourself:
 - i. Would decreasing the number of hours solve the "why"

1. This can be as simple as converting 60 hours a week to 40, or increasing length and duration of vacations
2. Can it be less than full stop closing the doors?
- ii. Would changing the subject area/focus of your practice solve the “why”?
 1. E.g. limiting to consulting, neutral work, eliminating litigation, use of virtual law office, what options in your field of practice.
 - a. Appeals
 - b. Transaction drafting
 - c. Trust cases
 - d. Post-judgment family law
 2. If it is, identify your referral base and your strategy for keeping them coming despite your lower profile.
 3. Will a virtual office work for you? It works for a lot of people.
 4. Plan and implement your marketing strategy **before** you close your office and let your staff go
- iii. Would consulting or “of counsel” to somebody else solve the “why”?
- iv. Would downsizing space/staff/overhead solve the “why”?
- f. Reality check: Can you afford to get out? (Be brutally honest here).
 - i. What would be the impact on your family? Staff? Clients? Partners?
 - ii. What financial changes would you have to make to make it a reality? How much are you willing to sacrifice in terms of financial security or quality of life to make it happen?
- g. Full stop retirement: Basically sell or just lock the door and walk?

i. Common obstacles:

1. Again, can you afford it? How will you replace the lost income?
What are your realistic basic needs to maintain your goals (where you live, frequency of vacations, etc.)
2. Realistically, what retirement assets do you have and how far will they go?
3. Health care: how much do you need your current plan and what are the alternatives?
4. Client care: You will still have clients during this process and can't afford to neglect them until they are transferred.

ii. What transition vehicles are available?

1. Buy out by partners
2. Sale (why a family law practice is different from a dental practice, etc.) Requirement of major ethical considerations (RPC)
 - a. Your most valuable asset may be the may be the phone # you've had for 40 years or your email address
 - b. It may be cheaper in the long run to close if you want to hang onto that phone number
 - c. What does your fee agreement say about withdrawing from representation?
3. "My associates are taking over."

- a. Do they know it? What if they decide not to? Remember, the younger generation is making different choices about quality of life than ours did.

iii. State Bar requirements for either sell or close:

1. Calbar.ca.gov.attorneys/ethics Tab: Senior Lawyer Resources
2. Inactive v. resignation
3. Specialization certification
4. Inactive fees, waiver of fees after age 70
5. What do you do with your trust account? What if you can't find the client?

iv. Make a "To Do" List

1. Notify clients, bar associations, professional organizations
2. Transfer active files
3. Store, return or destroy closed files
4. Close out trust accounts
5. What, if any, malpractice insurance tail is needed and when effective
6. Cancel equipment leases/vendor contracts/subscriptions
7. Close/transfer websites and domain names
8. Phone numbers/call forwarding/automated message
9. Taking down computer system
10. Notify postal and provide mail forwarding
11. Cancel premises or office insurance and worker's comp

12. Safe deposit box
 13. Credit card machine
 - 14.
 - 15.
- v. What file closing practices, if implemented now, will make transition easier?

PART TWO – Projecting Post Retirement

- A. Get your legal pad: what will your days look like post-retirement?
- a. What are the psychological ramifications?
 - i. What will be your new identity?
 - ii. How will you spend your time?
 - b. How will you adjust to not having a place to go after decades of practice?
 - i. Seriously, if your only “plan” is to stay home and make your spouse crazy, you may end up in the office of somebody like me. (Divorce Attorney).
I’ve seen too many couples who did fine until retirement and found they didn’t know what to do with themselves or each other.
 - ii. Maybe part time pro bono for a cause you believe in? (caution if inactive)
 - iii. The hobby you’ve never had enough time for?
 - iv. What will give your life meaning and purpose?

PART THREE – Creating a Strategy

- A. Note: this takes time. Don't wait until a few months before your lease is up. Even if it is a closely guarded secret because you aren't ready to give up your referral sources, you need a strategy NOW, as soon as you've gone through the Part One process and have made your decision. It is never too late to start creating an overall timeline.
- B. What are the downsides during the process?
- a. You may be taking fewer cases (= less income) but your fixed expenses remain the same
 - b. Obligations to existing clients. What is your timeline to finish/transfer these matters
 - c. Obligations to future clients you take during the process.
 - d. What is your plan for these clients? Only going to take the cases you know you can finish?
 - e. Are you going to transition them to other lawyers as the time approaches? What are your ethical obligations? Disclose your plan before taking them on?
- C. Strategy may depend on your business model:
- a. Sole proprietorship
 - b. Partnership
 - c. LLP
 - d. Multi-shareholder professional corporation
- D. Is your practice susceptible to sale? Some are, most aren't. The internet has listings of firms (mostly lawyers) who can help value and sell a practice.
- a. If so, what are you selling? Bottom line is anticipated future revenue

- i. Basically goodwill;
 - ii. Your referral list;
 - iii. Your website;
 - iv. Your phone number;
 - v. Office space/existing lease
- E. Create a timeline of your current lease/equipment obligations, work in progress, and other transitional aspects. (Assume your income will gradually drop as you get deeper into the process.)

PART FOUR – Some Practical considerations

- A. Returning files to clients: what are you required to return and in what form? Work product? Notes?
- B. What is your responsibility for the storage of files after retirement? Review and follow the State Bar guidelines on this.
- C. Trust account management
- D. What about all the old wills and trusts you drafted years ago? (Probate Code §730-735)
- E. Collecting old receivables - Hint: offering a deep discount if paid in the next X days is a lot better than writing it off.
- F. Getting rid of your "stuff"
 - a. Turn key to a new lawyer striking out on their own
 - b. No market for old law books, desks, outdated equipment
 - c. Donate (maybe)
 - d. Craig's List (free, come and get)

The State Bar of California

180 Howard Street, San Francisco, CA 94105

888-800-3400

OFFICE OF ATTORNEY REGULATION
& CONSUMER RESOURCES

AttorneyRegulation@calbar.ca.gov

Application for Transfer to Inactive Status

NOTE: Only ACTIVE attorneys may transfer to INACTIVE status

Transferring to Inactive Status after February 1, 2019, will not reduce ACTIVE fees owed or paid for 2019. A change to inactive status after February 1, 2019, is permissible; however the attorney must pay annual fees at the active rate, and is not entitled to a refund because of the change to inactive status. Please review the pertinent sections of the State Bar Act listed below and the Instructions provided.

Please log on to My State Bar Profile, on the State Bar's website: calbar.ca.gov, to verify your address and update if necessary. Note: Inactive attorneys should close any open IOLTA bank account as soon as possible and update the IOLTA account status through My State Bar Profile.

State Bar No.: _____ Last Name: _____ First Name: _____

Effective date of INACTIVE status will automatically be the date this form is received by the State Bar, unless a later date is indicated here:

(MM/DD/YYYY)

E-mail: _____ Phone Number: _____

Please be advised that under California Rule of Court 9.9.5, all inactive licensed attorneys must be fingerprinted PRIOR to being placed on Active status. Therefore an inactive attorney will be required to comply with the fingerprint requirement found in My State Bar Profile prior to being transferred to Active status.

Pertinent Sections of The State Bar Act

"Section 6004. Every member of the State Bar is an active member until...at his request, he is enrolled as an inactive member."

"Section 6005. Inactive members are those members who have requested that they be enrolled as inactive members..."

"Section 6006. Active members who retire from practice shall be enrolled as inactive members at their request..."

"Section 6125. No person shall practice law in California unless the person is an active member of the State Bar."

"Section 6126. Any person advertising or holding himself or herself out as practicing or entitled to practice law or otherwise practicing law who is not an active member of the State Bar, is guilty of a misdemeanor..."

"Section 6127. The following acts or omissions in respect to the practice of law are contempts of the authority of the courts:

- (a) Assuming to be an officer or attorney of a court and acting as such, without authority.
- (b) Advertising or holding oneself out as practicing or as entitled to practice law or otherwise practicing law in any court, without being an active member of the State Bar..."

Pertinent Sections of The Rules of the State Bar of California, Title Two, Rights and Responsibilities of Members.

Rule 2.30 Inactive membership

- (A) Any member not under suspension, who does not engage in any of the activities listed in (B) in California, may, upon written request, be enrolled as an inactive member. The Secretary may, in any case in which to do otherwise would work an injustice, and subject to any directions which may be given by the board permit retroactive enrollment of inactive members.
- (B) No member practicing law, or occupying a position in the employ of or rendering any legal service for an active member, or occupying a position wherein he or she is called upon in any capacity to give legal advice or counsel or examine the law or pass upon the legal effect of any act, document or law, shall be enrolled as an inactive member.
- (C) Notwithstanding (A) and (B) a member serving for a court or any other governmental agency as a referee, hearing officer, court commissioner, temporary judge, arbitrator, mediator or in another similar capacity is eligible for enrollment as an inactive member if he or she does not otherwise engage in any of the activities listed in (B) or hold himself or herself out as being entitled to practice law.

I declare under penalty of perjury under the laws of the State of California that I have reviewed the Rules of the State Bar of California and I am eligible to enroll as an INACTIVE attorney of the State Bar of California. I agree to comply with the State Bar Act and the Rules of the State Bar of California.

Attorney Signature: _____

Today's Date: _____

(MM/DD/YYYY)

FAX COMPLETED FORM TO:
The State Bar of California
Attorney Regulation & Consumer Resources
415-538-2576

Application for Transfer to Inactive Status Instructions

Effective Date of INACTIVE Status

The effective date of your inactive status will be the date that your request is received by the State Bar, or a future date if so indicated. You may not transfer retroactively to inactive status.

To qualify for the inactive fee, you must formally transfer to inactive status by submitting this completed form no later than February 1, 2019. Inactive status is maintained by payment of the inactive annual fee. If you practice law or perform any other service described on the inactive application (*Rules of the State Bar Title Two, Rule 2.30*), you must remain on active status and pay the active fee.

Applications for Transfer to Inactive Status must be submitted and effective no later than February 1, 2019, to be eligible for the inactive rate for 2019. A change to inactive status after February 1, 2019, is permissible; however the attorney must pay annual fees at the active rate, and is not entitled to a refund because of the change to inactive status.

Inactive Status Information

Please review this inactive information carefully. If you qualify, complete and sign the application form. When considering transfer to inactive status, please be advised that transferring from active to inactive status may have significant consequences. For example, transferring to inactive status:

- precludes an attorney from practicing law in California, or occupying a position in the employment of or rendering any legal service for an active attorney, or occupying a position wherein he or she is called upon to give legal advice or counsel or examine the law or pass upon the legal effect of any act, document or law. (*Rules of the State Bar, Title 2, Rule 2.30*)
- may affect an attorney's qualifications for appointment to judicial office – for further information please contact the jurisdiction(s) directly.
- may affect an attorney's qualifications for admission to practice law in other jurisdictions – for further information please contact the jurisdiction(s) directly.
- does not affect an attorney's status or payment obligations as a certified legal specialist unless you resign permanently from that program using the form located at californiaspecialist.org.
- may affect an attorney's eligibility to participate in the Pro-Bono Practice Program. Please review rule 3.327.
- precludes an attorney from voting in any election or plebiscite conducted by the State Bar.
- precludes an attorney from engaging in certain activities in California including, but not limited to, working as a private arbitrator, mediator, referee or other dispute resolution provider, a law clerk, paralegal, real estate broker or CPA. This is based on the presumption that these activities call upon an attorney to give legal advice or counsel or examine the law or pass upon the legal effect of any act, document or law.

Inactive attorneys do, however, retain certain rights and benefits of active attorneys, including:

- ability attend meetings of the State Bar
- receipt of the State Bar bar card and monthly electronic editions of the California Bar Journal.
- eligibility, if not under suspension, to transfer back to active status (not retroactively), at any time upon written request and payment of the difference between the active and inactive fee for the current year.

While on inactive status, you are still subject to the disciplinary authority of the State Bar of California.

Should you determine to apply for transfer from active to inactive status, please be advised that the use of "Attorney-at-Law" on stationery, envelopes or check stock after becoming an inactive attorney could be considered as advertising or holding out that you are practicing or entitled to practice law, which is prohibited by Sections 6126 and 6127 of the State Bar Act.

PLEASE NOTE: YOU WILL REMAIN ON ACTIVE STATUS UNTIL YOUR COMPLETED AND SIGNED APPLICATION TO TRANSFER TO INACTIVE STATUS IS RECEIVED.

Phone: 888-800-3400

Fax: 415-538-2576

Mailing Address: The State Bar of California
Attorney Regulation & Consumer Resources
180 Howard Street
San Francisco, CA 94105

ETHICAL GUIDE TO SUCCESSION PLANNING

The premature closing of a law office can result from an unexpected disability, death, disappearance, or discipline of an attorney. The failure to plan adequately for the unexpected can result in harm to the client and in confusion and hardship for the attorney's family, staff and professional colleagues.

Developing a succession plan in advance ensures the orderly transfer of a client's matters and files to a new attorney, as well as return of moneys held in trust and satisfies the attorney's ethical obligation to provide competent and diligent representation.

This guide charts a path for an attorney to facilitate the transition of open client matters to new attorneys or a successor attorney appointed in advance by the affected attorney. It also addresses what can happen when an attorney does not prepare a succession plan and the State Bar becomes involved with the attorney's practice.

I. Is An Attorney Required to Develop a Succession Plan

While there is no professional obligation requiring an attorney to have a succession plan, prudent attorneys should have one in place. Attorneys owe fiduciary duties to their clients: duties of loyalty and confidentiality and the duty to perform services competently. California Rule of Professional Conduct 1.1 and 1.3. Attorney competence includes anticipating events or circumstances that may adversely affect client representation. (See Rutter Practice Guide, *Professional Responsibility*, 6:24.3) Practice interruption may affect an attorney's fiduciary obligations to his/her clients and produce harsh consequences. An attorney without a succession plan may face State bar discipline and legal malpractice exposure.

Although representation normally will terminate when the attorney is no longer able to adequately represent the client, the attorney's fiduciary obligations continue beyond the termination of the agency relationship. See ABA Formal Opinion No. 92-369.

II. What Are the Core Elements of a Succession Plan

The type of practice determines the elements of a succession plan. Mid-size and large firms with multiple attorneys do not experience issues regarding file transfer and attorney-client privilege and confidentiality that a solo or small firm

practitioner faces . It is suggested that every solo or small firm attorney should have a written succession plan that includes detailed instructions to members of the attorney's immediate family, a designated successor attorney, the attorney's estate planning representative and key office staff.

The following are core elements of a comprehensive plan:

1. A written agreement with the designated successor attorney.
2. Information regarding the status of open client matters including contact information for the client and the location of the client files.
3. A copy of the attorney's client file retention policy.
4. Details concerning the IOLTA account, operating account and other bank information .
5. The location of log-in and password information for bank accounts, computers, mobile devices, voicemail, cloud storage, billing systems, calendaring system, email and other websites the attorney regularly uses.
6. The location of accounts payable and receivable information.
7. Contact information for office personnel and key vendors.
8. Detailed information about office lease, insurance, and leased equipment.

Corporate Entity Considerations

If the affected attorney is the sole member of a LLC or LLP, the LLC or LLP must pre-authorize someone other than the sole member to act on behalf of the entity and carry out the succession plan in the event of the member's death or disability. The corporate entity must have a resolution in place that states when and how the successor attorney may act on behalf of the entity after the death or disability of the member.

III. Why Designate a Successor Attorney

The succession plan should include the designation of a competent and diligent attorney to act as the successor attorney. Some malpractice insurance carriers may require the designation. A successor attorney is typically granted authority by the affected attorney to inventory the affected attorney's files and make determinations as to which files need immediate protective actions. In addition, the successor attorney is typically responsible for notifying the affected attorney's clients. See ABA Formal Opinion 92-369. The designation of a successor attorney will ensure client confidentiality and prevent malpractice if an attorney is temporarily disabled.

(eg file to protect a statute of limitations or other filing deadline). An ideal candidate is someone the affected attorney knows and trusts and who practices in the same field and geographic location.

IV. How Do I Designate a Successor Attorney

A written agreement between the affected attorney and the successor attorney is essential to memorialize the arrangement and include duties and responsibilities. Suggested key provisions of the agreement should include the following:

1. Authority to access the client's matters (eg within 24-48 hours after death or disability) and determine those matters which need protective action.
2. A provision concerning confidentiality to authorize the review.
3. Authority to carry out immediate protective action including communication with courts and opposing counsel.
4. Authority to notify clients concerning death or disability. (a draft letter can be prepared in advance for the successor attorney to send to clients)
5. Authority for the successor attorney to access and serve as a signatory on the attorneys IOLTA and operating accounts.
6. Any compensation that will be paid to the successor attorney for his/her services.
7. Indemnification of the successor attorney by the practice or the estate of the deceased attorney
8. Termination of the agreement.

V. How will the Successor Attorney Access My IOLTA and Operating Accounts

Advanced planning can avoid issues that may arise concerning the successor attorney's need to access the trust and operating accounts. The affected attorney should contact his/her bank in advance to determine what documentation it will accept for transfer and/or signature authority on these accounts. Methods of possible documentation include: a power of attorney, a copy of the written agreement between the successor and affected attorney permitting access, a probate court order or pre-signed designation forms provided by the bank.

Under the written agreement, the successor attorney should make every reasonable effort to identify clients who have funds on deposit in trust and contact the clients to return any funds to which they are entitled.

VI. What Happens If There is No Written Succession Agreement/Plan-State Bar Involvement under Business & Professions Code

A significant interruption in an attorney's practice may provide a sufficient basis for the State Bar to petition the Superior Court to assume jurisdiction over an attorney's practice under Business & Professions Code Sections 6180 (cessation) and 6190 (incapacity). The court will assume jurisdiction to protect client interests and if there are unfinished client matters for which no other attorney has agreed to assume responsibility. The State Bar and the Superior Court have the authority to take over management and control and to close the practice. See Business & Professions Code Sections 6180/6190. Although the Court may appoint an attorney, the process often involves a State Bar attorney who takes over and manages the practice until it can be closed. The appointed attorney can examine files and records, obtain information on pending matters that require attention, notify clients and inform them it may be necessary to obtain other legal counsel. See Business & Professions Code Section 6180.5. In addition, until new counsel is obtained, the appointed attorney has the authority to control all operations and bank accounts of the practice.

Since the attorney appointed is working under the auspices of the Superior Court, he/she will not be liable to a particular client if there is any harm resulting from the death or disability of the affected attorney. Business & Professions Code Section 6180.11.

If the Superior Court becomes involved there are serious obstacles that a recovering or recovered attorney faces. Once the Court proceeds under Business & Professions Code Sections 6180/6190, the attorney is automatically placed on inactive status and must seek reinstatement to resume practice. See Business & Professions Code Section 6007(b)(2). Reinstatement depends on the attorney's ability to prove that he/she is competent to practice. Once reinstated, the attorney must petition the Superior Court to terminate jurisdiction over the practice. Business & Professions Code Section 6190.6.

All of these obstacles should serve as motivation for attorneys to make a succession plan.

VII. California Probate Code Sections For Court Supervision of a Deceased or Disabled Attorney's Practice

California Probate Code provisions provide for court supervision of a deceased or disabled attorney. Pursuant to Probate Code Sections 2468, 9764 and 17200 (22) and (23), the conservator of a disabled attorney and the personal representative of a deceased attorney may bring a noticed petition seeking the appointment of a successor attorney to be a practice administrator and to take control of the disabled or deceased attorneys practice.

If the attorney's estate planning documents include advance health care directives in the event of disability, the authority granted must be sufficiently comprehensive to allow the personal representative to act for the attorney in matters regarding the law practice, including petitioning the Court for appointment of a practice administrator under Section 2468.

The probate code has a number of provisions which are suited for advance succession planning. First, the court will generally appoint the attorney named in the written succession agreement unless to do so would adversely impact clients or other persons interested in the affected attorney's practice or estate. See Probate Code Sections 2468(f) and 9764(f). Second, the court may waive notice if it determines that immediate appointment of a practice administrator is required to safeguard the interests of the estate. Probate Code Sections 2468(b) and 9764(b). Third, duties and powers of a practice administrator will be specifically listed in the court's order. Business and Professions Code Section 6185.

The powers provided a practice administrator under the Probate Code substantially differ from the duties of a Court appointed attorney under Business & Professions Code 6180/6190.

For example, if the affected attorney becomes disabled through accident or illness and is unable to practice but the prognosis is temporary disability and the attorneys doctors opine he/she will be able to return to full time practice in a short period of time, the practice administrator will be able to petition the Court and provide evidence the attorney has recovered the capacity to resume practice. In that event, the practice administrator "shall forthwith terminate" and the disabled attorney shall be restored to her or her practice. Probate Code Section 2468(i).

If the disability is long term or permanent or the attorney has died, the practice administrator has the authority, subject to the approval of the personal

representative, to create a plan for disposition of the practice. Business & Professions Code Section 6185(a)(7). This includes the sale or other transfer of the practice in accord with the attorney's estate planning documents. Because the primary goal is to protect the practice and its value, the practice administrator should be authorized to take steps necessary to ensure the practice is propitiously maintained, managed or concluded. See Business & Professions Code Sections 6185(a)(6). Once these services are provided the practice administrator shall render an accounting and petition for discharge. Business & Professions Code Section 2468(h) and 9764(h).

VIII. Conclusion

The best recommendation is to plan ahead so that succession of an attorney's law practice or its closing can be handled with the least amount of stress and chaos associated with unexpected events. Attached to this article are selected Rules of Professional Conduct, Rules of Court, California Statutes applicable to succession planning and ABA Formal Opinion 92-369. In addition, some State Bar resources are also attached.

About the Author: Lorraine M. Walsh is an attorney who has practiced in California for 37 years and maintains her office in Walnut Creek. She is a State Bar certified specialist in Legal Malpractice Law and handles controversies involving attorneys and clients. She is the Chair of the newly formed Contra Costa County Bar Association Senior Section.



The State Bar of California

Rules and Statutes

The selected rules and code sections provided below may be of special interest to senior lawyers. The entire Rules of Professional Conduct, State Bar Act, and more selected code sections can be found at the main Ethics Information page.

Rules of Professional Conduct

- Rule 1.1 Competence
- Rule 1.4.2 Disclosure of Professional Liability Insurance
- Rule 1.5.1 Fee Divisions Among Lawyers
- Rule 1.6 Confidential Information of a Client
- Rule 1.7 Conflicts of Interest:Current Clients
- Rule 1.9 Duties to Former Clients
- Rule 1.10 Imputation of Conflicts of Interest:General Rule
- Rule 1.15 Safekeeping Funds and Property of Clients and Other
- Rule 1.16 Declining or Terminating Representation
- Rule 1.17 Sale of a Law Practice
- Rule 5.4 Financial and Similar Arrangements with Nonlawyers
- Rule 6.5 Limited Legal Services Programs
- Rule 7.1-7.5 Advertising and Solicitation

Rules of Court

- Rule 9.6 (former Rule 950.5) Roll of Attorneys Admitted to Practice
- Rule 9.7 Online Reporting by Attorneys

California Statutes

- Business and Professions Code § 6002.1 Official Membership Records
- Business and Professions Code § 6006 Retirement from Practice; Privileges of Inactive Members
- Business and Professions Code § 6007 Involuntary Enrollment as an Inactive Member
- Business and Professions Code § 6068(e) Duties of Attorney
- Business and Professions Code § 6073 Pro Bono Services-Fulfillment of Commitment by Financial Support to Organizations Providing Free Legal Services
- Business and Professions Code § 6141-6141.1 Inactive Membership Fee; Waivers
- Business and Professions Code § 6180 et seq. Notice to Clients and for Disposing of a Law Practice

- Business and Professions Code § 6190 et seq. Authority of Courts; Attorney Incapable of Practice; Protection of Clients
- Code of Civil Procedure § 286 Death or Disability-Appearance
- Probate Code § 700 et seq. Termination and Transfer of Documents by Attorney
- Probate Code § 2468 Disabled Attorney-Petition for Appointment of Practice Administrator; Notice and Hearing, Contents, Compensation, Termination
- Probate Code § 4700-4701 Advance Health Care Directives
- Probate Code § 9764 Deceased Attorney-Petition for Appointment of Practice Administrator; Notice and Hearing, Contents, Compensation, Termination
- Probate Code § 17200 Trusts-Existence of; Petitions to Appoint a Practice Administrator for a Deceased or Disabled Member

Take the SAGE Test

Ohio State University's **cognitive screening test**



The State Bar of California

Publications and Guides

Selected California Publications

- A Wellness Guide for Senior Lawyers and their Families, Friends and Colleagues
- Guidelines for Closing or Selling a Law Practice
- Practitioner's Checklist (for the sale or closing of a law practice)
- Handbook on Client Trust Accounting for California Lawyers
- Get the Legal Facts of Life: "What Should I Know About Elder Abuse?"
- Guide to the California Rules of Professional Conduct for Estate Planning, Trust and Probate Counsel

Selected ABA Publications

- ABA Policy on Advance Designation of Caretaker or Surrogate Lawyer
- Chart - State by State Caretaker Rules when Lawyer Disappears, Dies, or is Declared Incompetent
- Assessment of Older Adults with Diminished Capacity: A Handbook for Lawyers
- Judicial Determination of Capacity of Older Adults in Guardianship Proceedings
- Experience, The Senior Lawyer Magazine
- Partner Departures and Lateral Moves
- Turning Points: New Paths and Second Careers for Lawyers
- Emeritus Attorney Programs: Best Practices and Lessons Learned
- Lawyer's Toolkit for Health Care Advance Planning
- Being Prepared: A Lawyer's Guide for Dealing with Disability or Unexpected Events

Other Publications

- NOBC-APRL Joint Committee on Aging Lawyers - Final Report

Take the SAGE Test

Ohio State University's **cognitive screening test**



The State Bar of California

Senior Lawyers Resources

Many attorneys reach their senior years with questions about what to do if they faced health problems that might affect how long they can work. They may be thinking of closing their practices or how to handle business if they were to suddenly pass away.

This Senior Lawyers Ethics Resources page is a collection of resources addressing attorney professional responsibility issues that arise in connection with retirement, disability, and death of attorneys. The resources include rules, advisory ethics opinions, articles, publications, and MCLE programs. Most of the links to these resources are internal links to other State Bar pages. Some are external links to local or out-of-state bar association and other websites.

- Rules and Statutes
- Ethics Opinions
- Publications and Guides
- Articles
- Online MCLE
- Forms
- Links
- Contact Us

Additional resources regarding closing a law practice and attorney surrogacy are listed below.

- Closing a Law Practice
- Attorney Surrogacy

Pro Bono Practice Program

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This opinion is based on the Model Rules of Professional Conduct and, to the extent indicated, the predecessor Model Code of Professional Responsibility of the American Bar Association. The laws, court rules, regulations, codes of professional responsibility and opinions promulgated in the individual jurisdictions are controlling.

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**Formal Opinion 92-369
Disposition of Deceased Sole
Practitioners' Client Files and Property**

December 7, 1992

To fulfill the obligation to protect client files and property, a lawyer should prepare a future plan providing for the maintenance and protection of those client interests in the event of the lawyer's death. Such a plan should, at a minimum, include the designation of another lawyer who would have the authority to review client files and make determinations as to which files need immediate attention, and who would notify the clients of their lawyer's death.

A lawyer who assumes responsibility for the client files and property of a deceased lawyer must review the files carefully to determine which need immediate attention. Because the reviewing lawyer does not represent the client, only as much of the file as is needed to identify the client and to make a determination as to which files need immediate attention should be reviewed. Reasonable efforts must be made to contact all clients of the deceased lawyer to notify them of the death and to request instructions in accordance with Rule 1.15.

The committee has been asked to render an opinion based on the following circumstances. A lawyer who has a large solo practice dies. The lawyer had hundreds of client files, some of which concern probate matters, civil litigation and real estate transactions. Most of the files are inactive, but some involve ongoing matters. The lawyer kept the active files at his office; most of the inactive files he removed from the office and kept in storage at his home.

The questions posed are two:

- 1) What steps should lawyers take to ensure that their clients' matters will not be neglected in the event of their death?

2) What obligations do lawyers representing the estates of deceased lawyers, or appointed or otherwise responsible for review of the files of a lawyer who dies intestate, have with regard to the deceased lawyer's client files and property?

I. Sole practitioner's obligations with regard to making plans to ensure that client matters will not be neglected in the event of the sole practitioner's death

The death of a sole practitioner could have serious effects on the sole practitioner's clients. *See Program: Preparing for and Dealing with the Consequences of the Death of a Sole Practitioner*, prepared by the ABA General Practice Section, Sole Practitioners and Small Law Firms Committee, August 7, 1986. Important client matters, such as court dates, statutes of limitations, or document filings, could be neglected until the clients discover that their lawyer has died. As a precaution to safeguard client interests, the sole practitioner should have a plan in place that will ensure insofar as is reasonably practicable that client matters will not be neglected in the event of the sole practitioner's death.

Model Rules of Professional Conduct 1.1 (Competence) and 1.3 (Diligence) are relevant to this issue, and read in pertinent part:

Rule 1.1 Competence

A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

Rule 1.3 Diligence

A lawyer shall act with reasonable diligence and promptness in representing a client.

Furthermore, the Comment to Rule 1.3 states in relevant part:

A client's interests often can be adversely affected by the passage of time or the change of conditions; in extreme instances, as when a lawyer overlooks a statute of limitations, the client's legal position may be destroyed. Even when the client's interests are not affected in substance, however, unreasonable delay can cause a client needless anxiety . . .

According to Rule 1.1, competence includes "preparation necessary for the representation," which when read in conjunction with Rule 1.3 would indicate that a lawyer should diligently prepare for the client's representation. Although representation should terminate when the attorney is no longer able to adequately represent the client,¹ the lawyer's fiduciary obligations of loyalty and confidentiality continue beyond the termination of the agency relationship.²

¹ See Model Rule of Professional Conduct 1.16 (" . . . a lawyer shall not represent a client or, where representation has commenced, shall withdraw from the representation of the client if: . . . 2) the lawyer's physical or mental condition materially impairs the lawyer's ability to represent the client . . .")

² See *Murphy v. Riggs*, 213 N.W. 110 (Mich. 1927) (fiduciary obligations of loyalty and confidentiality continue after agency relationship concluded); *Eoff v. Irvine*, 18 S.W. 907 (Mo. 1892) (same).

Lawyers have a fiduciary duty to inform their clients in the event of their partnership's dissolution.³ A sole practitioner would seem to have a similar duty to ensure that his or her clients are so informed in the event of the sole practitioner's dissolution caused by the sole practitioner's death. Because a deceased lawyer cannot very well inform anyone of his or her death, preparation of a future plan is the reasonable means to preserve these obligations. Thus, the lawyer ought to have a plan in place which would protect the clients' interests in the event of the lawyer's death.⁴

Some jurisdictions, operating under the Model Code of Professional Responsibility, have found lawyers to have violated DR 6-101(A)(3) when the attorneys have neglected client matters by reason of ill-health, attempted retirement, or personal problems.⁵ The same problems are clearly presented by the attorney's death, thus suggesting that a lawyer who died without a plan for the maintenance of his or her client files would be guilty of neglect. Such a result is also consistent with two of the three justifications for lawyer discipline.⁶ Sanctioning of lawyers who had inadequately prepared to protect their clients in the event of their death would tend to dissuade future acts by other lawyers, and it would help to restore public confidence in the bar.⁷

Although there is no specifically applicable requirement of the rules of ethics, it is fairly to be inferred from the pertinent rules that lawyers should make arrangements for their client files to be maintained in the event of their own death. Such a plan should at a minimum include the designation of another lawyer who would have the authority to look over the sole practitioner's files

³ See *Vollgraff v. Block*, 458 N.Y.S. 2d 437 (Sup. Ct. 1982) (breach of fiduciary duty if partnership's clients not advised of dissolution of partnership). A state bar association is considering creating an "archive form" – indicating the location of client files – which lawyers would complete and file with the state bar association in the event they terminate or merge their practice, thus enabling clients to locate their files. See *ABA ETHICSearch*, September 1992 Report. Such a form would be consistent with the duty discussed in *Vollgraff*, as simply informing a client of a firm's dissolution without telling the client where the client's files are located would be tantamount to saying "your files are no longer here."

⁴ The Fla. Bar, Professional Ethics Comm., Op. 81-8(M) (Undated) discussed the obligations of a lawyer who was terminally ill with regard to client files:

After diligent attempt is made to contact all clients whose files he holds, a lawyer anticipating termination of his practice by death should dispose of all files according to his client's instructions. The files of those clients who do not respond should be individually reviewed by the lawyer and destroyed only if no important papers belonging to the clients are in the files. Important documents should be indexed and placed in storage or turned over to any lawyer who assumes control of his active files. In any event, the files may not be automatically destroyed after 90 days.

⁵ See *In re Jamieson*, 658 P.2d 1244 (Wash. 1983) (neglect due to ill-health and attempted retirement); *In re Whitlock*, 441 A.2d 989 (D.C. App. 1982) (neglect due to poor health, marital difficulties and heavy caseload); *Committee on Legal Ethics of West Virginia State Bar v. Smith*, 194 S.E.2d 665 (W. Va. 1973) (neglect due to illness and personal problems).

⁶ See *In re Moynihan*, 643 P.2d 439 (Wash. 1982) (three objectives of lawyer disciplinary action are to prevent recurrence, to discourage similar conduct on the part of other lawyers, and to restore public confidence in the bar).

⁷ Obviously, sanctions would have no deterrent effect on deceased lawyers.

and make determinations as to which files needed immediate attention, and provide for notification to the sole practitioner's clients of their lawyer's death.⁸

II. Duties of lawyer who assumes responsibility for deceased lawyer's client files

This brings us to the second question, namely the ethical obligations of the lawyer who assumes responsibility for the client files and property of the deceased lawyer. Issues commonly confronting the lawyer in this situation involve the nature of the lawyer's duty to inspect client files, the need to protect client confidences and the length of time the lawyer should keep the client files in the event that the lawyer is unable to locate certain clients of the deceased lawyer.

At the outset, the Committee notes that several states' rules of civil procedure make provision for court appointment of lawyers to take responsibility for a deceased lawyer's client files and property.⁹ Since the lawyer's duties under these statutes constitute questions of law, the Committee cannot offer guidance as to how to interpret them.¹⁰

A. Duty to inspect files

Many state and local bar associations have explored the issues presented when a lawyer assumes responsibility for a deceased lawyer's client files.¹¹ The ABA Model Rules for Lawyer

⁸ Although the designation of another lawyer to assume responsibility for a deceased lawyer's client files would seem to raise issues of client confidentiality, in that a lawyer outside the lawyer-client relationship would have access to confidential client information, it is reasonable to read Rule 1.6 as authorizing such disclosure. Model Rule of Professional Conduct 1.6(a) ("A lawyer shall not reveal information relating to representation of a client . . . except for disclosures that are impliedly authorized in order to carry out the representation.") Reasonable clients would likely not object to, but rather approve of, efforts to ensure that their interests are safeguarded.

⁹ See, e.g., Illinois Supreme Court Rule 776, Appointment of Receiver in Certain Cases:

Appointment of Receiver. When it comes to the attention of the circuit court in any judicial circuit from any source that a lawyer in the circuit is unable properly to discharge his responsibilities to his clients due to disability, disappearance or death, and that no partner, associate, executor or other responsible party capable of conducting that lawyer's affairs is known to exist, then, upon such showing of the presiding judge in the judicial circuit in which the lawyer maintained his practice, or the supreme court, may appoint an attorney from the same judicial circuit to perform certain duties hereafter enumerated Duties of Receiver. As expeditiously as possible, the receiver shall take custody of and make an inventory of the lawyer's files, notify the lawyer's clients in all pending cases as to the lawyer's disability, or inability to continue legal representation, and recommend prompt substitution of attorneys, take appropriate steps to sequester client funds of the lawyer, and to take whatever other action is indicated to protect the interests of the attorney, his clients or other affected parties.

¹⁰ Lawyers who act as administrators of estates have fiduciary duties to all those who have an interest in it, such as beneficiaries and creditors. Questions involving the lawyer's fiduciary responsibility to the estate of a deceased lawyer are also questions of law that this Committee cannot address. See, e.g., *In Re Estate of Halas*, 512 N.E.2d 1276 (Ill. 1987); *Aksomitas v. Aksomitas*, 529 A.2d 1314 (Conn. 1987).

¹¹ See, e.g., Md. State Bar Ass'n, Inc., Comm. on Ethics, Op. 89-58 (1989); State Bar of Wis., Comm. on Professional Ethics, Op. E-87-9 (1987); Miss. State Bar, Ethics Comm., Op. 114 (1986); N.C. State Bar Ass'n, Ethics Comm., Op. 16 (1986); Ala. State Bar, Disciplinary Comm'n., Op. 83-155 (1983); Bar Ass'n of Nassau County (N.Y.), Comm. on Professional Ethics, Ops. 89-43 and 89-23 (1989); Ore. State Bar, Ethics Comm., Op. 1991-129 (1991).

Disciplinary Enforcement also address some aspects of the question.¹² A lawyer who assumes such responsibility must review the client files carefully to determine which files need immediate attention; failure to do so would leave the clients in the same position as if their attorney died without any plan to protect their interests. The lawyer should also contact all clients of the deceased lawyer to notify them of the death of their lawyer and to request instructions, in accordance with Rule 1.15.¹³ Because the reviewing lawyer does not represent the clients, he or she should review only as much of the file as is needed to identify the client and to make a determination as to which files need immediate attention.¹⁴

B. Duty to maintain client files and property

Questions also arise as to how long the lawyer who assumes responsibility for the deceased lawyer's client files should keep the files for those clients he or she is unable to locate. ABA Informal Opinion 1384 (1977) provides general guidance in this area. We believe that the principles set out in that opinion are applicable to the instant question. Informal Opinion 1384 states as follows:

A lawyer does not have a general duty to preserve all of his files permanently. Mounting and substantial storage costs can affect the cost of legal services, and the public interest is not served by unnecessary and avoidable additions to the cost of legal services.

But clients (and former clients) reasonably expect from their lawyers that valuable and useful information in the lawyers' files, and not otherwise readily available to the clients, will not be prematurely and carelessly destroyed to the clients' detriment.

¹² ABA Model Rules for Lawyer Disciplinary Enforcement (1989), Rule 28 states in relevant part: APPOINTMENT OF COUNSEL TO PROTECT CLIENTS' INTERESTS WHEN RESPONDENT IS TRANSFERRED TO DISABILITY INACTIVE STATUS, SUSPENDED, DISBARRED, DISAPPEARS, OR DIES.

A. Inventory of Lawyer Files. If a respondent has been transferred to disability inactive status, or has disappeared or died, or has been suspended or disbarred and there is evidence that he or she has not complied with Rule 27, and no partner, executor or other responsible party capable of conducting the respondent's affairs is known to exist, the presiding judge in the judicial district in which the respondent maintained a practice, upon proper proof of fact, shall appoint a lawyer or lawyers to inventory the files of the respondent, and to take such action as seems indicated to protect the interests of the respondent and his or her clients.

B. Protection for Records Subject to Inventory. Any lawyer so appointed shall not be permitted to disclose any information contained in any files inventoried without the consent of the client to whom the file relates, except as necessary to carry out the order of the court which appointed the lawyer to make the inventory.

¹³ Model Rule of Professional Conduct 1.15(b) ("Upon receiving funds or other property in which a client or third person has an interest, a lawyer shall promptly notify the client or third person.")

¹⁴ Again, while issues of client confidentiality would appear to be raised here, a reasonable reading of Rule 1.6 suggests that any disclosure of confidential information to the reviewing attorney would be impliedly authorized in the representation. See note 8, *supra*.

Informal Opinion 1384 then lists eight guidelines that lawyers should follow when deciding whether to discard old client files. One of these guidelines states that a lawyer should not "destroy or discard items that clearly or probably belong to the client. Such items include those furnished to the lawyer by or in behalf of the client, and original documents." Another suggests that a lawyer should not "destroy or discard information that the lawyer knows or should know may still be necessary or useful in the assertion or defense of the client's position in a matter for which the applicable statutory limitations period has not expired."

There is no simple answer to this question. Each file must be evaluated separately. Reasonable efforts must be made to contact the clients and inform them that their lawyer has died, such as mailing letters to the last known address of the clients explaining that their lawyer has died and requesting instructions.¹⁵

Finally, questions arise with regard to unclaimed funds in the deceased lawyer's client trust account. In this situation, reasonable efforts must be made to contact the clients. If this fails, then the lawyer should maintain the funds in the trust account. Whether the lawyer should follow the procedures as outlined in the applicable Disposition of Unclaimed Property Act that is in effect in the lawyer's state jurisdiction is a question of law that this Committee cannot address.¹⁶

¹⁵ Responding to a recent inquiry, the Committee on Professional Ethics of the Bar Association of Nassau County suggested that an attorney assuming responsibility for a deceased attorney's client files has an ethical obligation to treat the assumed files as his or her own. Bar Ass'n of Nassau County (N.Y.), Comm. on Professional Ethics, Op. 92-27 (1992).

¹⁶ There are at least 27 state and local bar opinions that discuss a lawyer's obligations when the lawyer cannot locate clients who have funds in lawyer trust accounts. *See, e.g.*, State Bar of S.D., Ethics Comm., Op. 91-20 (1991); State Bar of Ariz., Comm. on Rules of Professional Conduct, Op. 90-11 (1990); R.I. Sup. Ct., Ethics Advisory Panel, Op. 90-21 (1990); Alaska Bar Ass'n, Ethics Comm., Op. 90-3 (1990); Md. State Bar Ass'n, Inc., Comm. on Ethics, Op. 90-25 (1990); Bar Ass'n of Nassau County (N.Y.), Comm. on Professional Ethics, Op. 89 (1990).

WHAT DOES RETIREMENT LOOK LIKE PSYCHOLOGICALLY SPEAKING:

1. Are we really ready to retire?
 2. Adjustment to Retirement means Changing One's Identity
 3. Measures of Adjustment:
 - Well being and Life Satisfaction
 - Purpose and Direction
 4. Predictors of Well Being in Retirement (Osborne)
 - Self Esteem, Personal Competence, Control
 - Personality traits: Neuroticism versus Extroversion
 - Decision Paralysis
 - Choice Dilemma
 5. Preparing for Retirement : Constructing a Framework for your Retirement
 6. Dychtwald's Five Phases of Retirement
 - He recommends: Start by finding your spot on the Retirement Transition Curve
- I) Imagination (15-5 years < Retirement, Fantasies, Hopes, Wishes)
 - II) Anticipation (5 years < Retirement)
- Psychological Aspects:
- Reality sets in, friends are retiring, you are tired of working, the finish line is in sight.
 - It is time to seek advice on how to handle feelings about leaving your career and the supportive network it provides
 - It is a mental health consideration
 - Being emotionally grounded will lead to better, more mindful decisions
 - Find purpose and ways to feel relevant and your financial plan will feel like a piece of cake (Mitch Anthony)

Questions to ask oneself:

- How will you spend time in retirement?
- What activities, interest and lifestyles are compatible?

Think about retirement as a late life career transition (Moen)

- Use some of the tools you might use in conceptualizing a career
- What are my aptitudes?
- What are things I like to do?
- Find people with a few years of experience living the retirement life you want and learn how they got it.
- Asking for direction is a sign of strength, not weakness

Identifying goals in retirement and persevering in its pursuit leads to better retirement (Dychtwald)

- Visualize the kind of person you want to become
- Share it with others
- Get feedback from people, who have successfully made the transition

III) Liberation (1st year of Retirement)

Develop concrete steps:

- What will I do one week post retirement?
- What will I do six months after that?
- Talk with your partner
- What are the two of you going to do together?
- What are you going to do day by day?

A way to transition successfully:

Schlossberg's four S's of coping with life changes and assessing your social and emotional strengths and weaknesses:

- Your situation with work and family at the time of transition
- Your sense of self, your outlook, resilience and spirituality
- Support, that is self esteem, social network and role models
- Strategy, optimism, reframing and self-management

Types of Retirees: (Schlossberg)

- **Adventurers**
- **Searchers**
- **Easy-Gliders**
- **Involved Spectators**

Two Kinds of Retreaters:

- **Those who pause to regroup**
- **Those who essentially don't leave their rocking chairs**

You may take on several of these personas during the honeymoon period.

Studies show that older people are happier than younger people

The Theory of Gerotranscendence: Meaningful Activities

- **Developing New Relationships**
- **The value of Friendships**
- **Being Resilient and Resourceful**
- **Staying Physically Active**
- **Practicing Self Compassion**
- **Considering Part Time or Volunteer Work**

Dychtwald recommends:

- **Having fun**
- **Making new friends**
- **Having less structure**
- **Trying something new and failing at it**

However, Loss of Work-Life Structure can lead to Sadness and Depression

What Retirees miss the most in their lives:

- **The social connection, stimulation and the action**
- **New relationships formed at this stage are not the same as what they used to have**

Dychtwald recommends:

- **Stopping, taking a breath and looking inside,**
- **Being resilient and resourceful**
- **Maintaining social contacts**
- **Staying physically active**
- **Practicing self compassion**
- **Considering part-time work or volunteering.**
- **Consider not retiring completely, but moving into consulting.**

Other Ways to successfully transition into Retirement:

- **Seeking Counseling**
- **Carrying Pre-retirement values and Customs into Retirement**

IV) Reorientation (2-15 years > Retirement)

- **The honeymoon is definitely over**
- **You are kind of settling in**
- **Next, reframe your mindset in terms of what you can offer to the world (Conley)**
- **Retirement is about reinventing yourself and pursuing what you always wanted but didn't dare to chase (Conley)**
- **Retirement is an added chapter, not the end of the road (Conley)**
- **Become a mentern, a mentor to younger people and an intern that is eager to learn (Conley)**

Mentorship is an important aspect of retirement:

- **It gives a sense of purpose, of meaning, countering the emptiness and even depression.**

Starting to pay attention to your legacy leads to Reconciliation

V) Reconciliation (more than 15 years > Retirement)

- **It is about your Legacy and how you will be remembered**
- **It is the opportunity of a lifetime**
- **It's the chance to distribute the wealth of knowledge, depth and wisdom you have acquired just by being alive**
- **The storyline of retirement will be less about winding things up and more about transforming oneself**
- **Dychtwald says: rather than just becoming elderly, we have become elders, wise, well-traveled, deeply experienced."**

Unfortunately, for many people, including Professionals, retirement can be a rather sobering experience:

Retirement also involves Grieving our Loss of Identity

Jung's Theory of Individuation- Self Actualization

Erickson's Theory of Psychosocial development

Final Stage, Identity versus Role Confusion

- Individuating in a less restrictive way
 - How we view Ourselves (Personal Identity)
 - How others view Us (Social identity)
 - Long-time identity structure can be severely damaged by the loss of the work role
 - Continuity
 - Developmental Issues may get reenacted in retirement
 - Freedom to be an individual more important than Freedom to be part of something, group, family

What is it really like becoming a Senior? :

- Vibrancy vs Loss of Energy
- Stereotyping
- Being Discarded
- Keeping Busy vs Meaningful activity
- Home Life
- Codependency, Married Couples
- Looking Back (Life Review)
- Looking Forward

Second Passages (Gail Sheehy) is helpful in understanding Aging

Each Decade brings another Challenge:

- Physical Changes (Illness and Decline)
- Cognitive Changes (Loss of intellectual functions, memory, executive functions, Dementia)
- Possibility of Institutionalization, Retirement Homes, ALF's, SNF's

Approaching the End

Death Anxiety