

'Graying of the bar' concerns Maine, N.H. legal groups

Dementia, forgetfulness cause for worry

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There's a bumper sticker that says, "Old lawyers never die, they just lose their appeal."

But what if an old lawyer becomes mentally impaired?

That's a topic of discussion among leaders of New Hampshire and Maine legal associations, echoing national discussions about "the graying of the bar."

"I guess some of us lose our marbles before others," said Portsmouth lawyer Bob Shaines, who is sharp at age 83, is half of the Shaines and McEachern law firm, and is writing his third book. "I'm not aware of any lawyers practicing who, because of age, have difficulties. And I know most of the older lawyers because I've outlived some of them."

Cecile Hartigan, executive director of the New Hampshire Lawyers Assistance Program, said that during the five years the group has been in existence, she has dealt with two cases involving practicing New Hampshire lawyers with dementia. With the impending "silver tsunami" associated with aging baby boomers, she said, it's statistically safe to assume the numbers will grow.

"Dementia can happen to any of us," Hartigan said. "I really prefer not to talk about it as aging. The problem is that the incidences are going to be higher because of baby boomers."

The NHLAP provides confidential help to legal professionals — and their families and business partners — for problems associated with addiction and mental health. Among other tasks, Hartigan answers a confidential hot line from callers with concerns about New Hampshire lawyers with impairments that affect their ability to practice law. Unfortunately, she said, "many times, they've waited until they have a crisis."

Others, she said, "sweep it under the rug."

"For me, it's no more offensive than talking about any other illness," Hartigan said. "As lawyers, we plan these things for others, but we don't always do it for ourselves."

Executive Director of the Maine Board of Overseers of the Bar Jackie Rogers said, "Maine is also very concerned about the aging bar."

"I think nationally, everyone is concerned about the aging of the bar," she said. "There was a bubble in the '80s with a lot of new lawyers, but that's not the case now."

Maine and New Hampshire's aging bar

Legal practitioners have an ethical obligation to report observations of colleagues who demonstrate signs of impairment, and a failure to do so carries a possible penalty. In Maine, the ethical obligation can be met by reporting anonymously, outside the realm of bar overseers and disciplinary action, but that's not the case in New Hampshire, Hartigan said.

In advance of the New Hampshire Bar's annual meeting in Portsmouth last month, bar President and lawyer Larry Vogelmann advocated for a change of ethical rules in New Hampshire to follow Maine's lead. He advised members "that the number of baby boomers in our bar presents issues that many of us would rather not deal with."

According to the New Hampshire Bar, the number of members over the age of 61 has increased by 22 percent since 1998, while the number of bar members under the age of 50 decreased from 36 percent to 24 percent.