



The NAELA Long Range Plan: Our Global Positioning System

By Daniel G. Fish, CELA

Not even the most prophetic visionary, standing by the pool of the Westward Look Resort in Tucson, Arizona at the first NAELA Symposium in 1989, could have foretold the Omnibus Budget Reconciliation Act of 1993, or "Granny Goes to Jail" or "Granny's Lawyer Goes to Jail" or *Peebler v. Reno* or the action of the Florida Legislature in the Schiavo case or the application for section 1115 waivers by the States of Connecticut, Massachusetts and Minnesota or the use of special needs trusts, or the existence of 302 Certified Elder Law Attorneys (CELAs) or the growth of long-term care insurance, or the explosion of the population over age 85 or Ronald Reagan as a poster child for Alzheimer's Disease or the existence of NAELA chapters in Missouri, Virginia, South Carolina, Maryland/DC, Illinois, Northern California, Washington, Texas, North Carolina, Florida, Kansas, Massachusetts, Southern California, New Jersey, Colorado and Arizona, or an organization approaching 5,000 members and a respected voice in Washington on aging issues.

A 15th anniversary issue of the *Quarterly* is an appropriate place to look back and take note of the extraordinary accomplishments of this organization. One overarching accomplishment stands out. *NAELA has helped to create an entirely new field of legal practice that dramatically improved the lives of seniors.*

The law is a profession that prides itself on *stare decisis* and has a common law tradition that is centuries old. New legal fields are not easily accommodated. The level of acceptance and recognition of elder law as a discrete area of practice within the legal profession are remarkable.

NAELA's long-range plan is a Global Positioning System (GPS) for this organization. The Mission Statement is the same as inputting the destination into the GPS. The long-range planning committee took measurements to determine the current status of NAELA just as the GPS calculates the starting position. The long-range plan itself is the same as the route which the GPS plots at the beginning of the trip. Both the GPS and the long-range plan allow for recalibration when mid-course corrections become necessary. The GPS and the long-range plan are the mechanisms that guide our progress and keep us on track. We should not fear change; in fact, we should fear stasis more than change.

The NAELA Long-Range Planning Committee serves for a three-year period. There have been three such committees in NAELAs history. The current committee was appointed for a term of three years and is ably served by **Donna Bashaw, CELA, Alfred Chiplin, Jr., Esq., Howard Krooks, CELA, Harriet Onello, Esq., Kerry Peck, Esq., Scott Severns,**

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NAELA President's Award Recipients

The NAELA President's Award is presented to an individual or entity in recognition of extraordinary contributions to the field of elder law and NAELA in particular.

1994

Helen Cohn Needham, CELA

1995

Brookings Institute in
New York City

1996

Senior Silver Care Program in
Colorado Springs, CO

1997

Charlotte Brayer
(posthumously)

1998

Vincent J. Russo, CELA

1999

National Senior Citizens Law
Center in Washington, DC

2000

Roy M. Booth, esq.

2001

Burton Fretz (posthumously)

2002

Thomas D. Begley, Jr., CELA

2003

John J. Wargo, CELA

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CELA, Mark Shalloway, CELA and Stuart Zimring, Esq., Bernard Krooks, CELA, Laury Gelardi and Bridget Jurich served as ex-officio members. The committee proceeded with several presumptions.

Janus

The long-range plan is not simply a self-congratulatory look backward. The charge of the committee is to look forward. The long-range planning committee must be Janus-like and look in two directions at once. The committee looked at the past accomplishments (and failures) as a tool to making realistic predictions about the future.

We Are not Perfect Seers

The long-range plan is meant to indicate the future trends in the broadest terms. The job of the long-range planning committee is not to act as an all-knowing seer.

We are not expected to have perfect foresight and predict the future. The goal is much more modest, though still difficult enough, to try to look far enough into the horizon to discern the outline of the changes that are likely to come to the forefront. The members of the committee were asked to try to define the trends likely to affect the organization, the members and the seniors. They were asked to be scouts and look over the horizon to tell the rest of the membership (who were understandably occupied with the day to day concerns of their practices) what they are likely to encounter enough ahead of them so that they can adapt to the change.

A Living Document

The long-range plan is not meant to be a procrustean bed that all efforts will be forced to accommodate. It is meant to be a measuring stick that we keep coming back to and use to answer the question of whether or not we are staying on mission. The measuring stick itself can be adjusted

as events in the background move closer to the foreground and their true nature and impact become clearer.

The long-range plan is meant to be a living document, continually referred to as a guidepost. It is meant to be questioned, challenged, amended and revised as needed. The worst case would be for the long-range plan to end up as a dusty document unread, unheeded and not relevant to the life of the Academy. NAELA President **William J. Browning, CELA**, is to be commended for circulating the salient points of the plan with the NAELA membership at large so that each NAELA member is aware of the course that is set and takes an interest in the direction and adds their voice to the process. President Browning has made a major step in placing the long-range plan in the daylight of scrutiny by the membership. The membership must own the long-range plan for it to be the living document it needs to be. Debate in the years to come should include an analysis of whether or not the proposal is in conformity with the long-range plan.

The following are recommendations of the long range planning committee that were adopted by the NAELA Board of Directors in July of 2003.

Mission Statement Amended

The mission statement has been amended to clarify the fact that NAELA members serve individuals of all ages. Our practices are not defined by the age of the clients in the waiting room. They are defined by the need of all our clients for assistance, regardless of age. The principles that guide our members encompass assistance to many younger individuals with special needs. The new mission statement is a clearer reflection of the true aspirational nature of NAELA. It is: "The mission of the National Academy of Elder Law Attorneys is to establish NAELA members as the premier providers of legal advocacy, guidance, and services to enhance the lives of people as they age."

#1. NAELA will invest additional resources to be a proactive and visible advocate on state and

national public policy issues affecting our members and their clients.

The practice of elder law is not immune from the forces of political trends. Our practice is built upon the need of many seniors for reasonable protection from the risk of long-term catastrophic custodial care. This in itself is a political issue. Our practice is built around the need to assure autonomy for our clients around health care decisions. This in itself is a highly political issue. Our practice is built around the need of many seniors for assistance in the payment for pharmaceuticals. This in itself is a highly political issue.

The practice of elder law cannot exist without reference to the reality of the political world, to the realization that our practice is in the middle of a political minefield. This argues for paying more attention to the way in which the practice is affected by political trends. NAELA must be nonpartisan because our membership is diverse. However, NAELA must become more active and less reactive to political events that directly affect the members and seniors.

#2. NAELA shall enhance the positive perceptions of NAELA and elder law among members, consumers and the media.

To many of our clients we are heroes. We have given assurance and care through one of the most difficult experiences of their life. The Greek myths tell of Charon, the ferryboat captain who takes the recently deceased across the river Styx and into the underworld. We are the ferryboat captains who take our clients across the river and into the underworld of nursing home care. But, we like Charon return across the river. Our clients look into our eyes and see that they will not make that same return voyage.

To others, we are viewed negatively, as though we created the crisis in long-term care in this country. Our critics remind us that Charon demanded payment. This explains the custom in some cultures of placing a coin under the tongue of the deceased.

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We have an opportunity to publicize the good deeds of our members. We need to "brand" the term NAELA so that it is synonymous with a high "Q" rating. NAELA should be correlated very highly with positive sentiments. The organization has been very successful in this regard within the legal and aging communities and needs to expand that effort to the public at large.

#3. NAELA shall develop minimum standards of professional conduct consistent with the NAELA mission statement, including due process procedures to maintain membership status when disciplinary problems arise.

Given the fact that we represent a very vulnerable population, the committee felt strongly that the organization should take steps to develop minimum standards of professional conduct. We have seen advertisements in our communities by attorneys including the phrase "Member, National Academy of Elder Law Attorneys." That statement should mean more than the fact that the attorney has paid his or her dues to NAELA. That qualification should always mean that the highest level of legal services are being rendered.

#4. NAELA will assist members in responding to major market shifts by providing direction into new areas of practice.

Demographic, political, and scientific events have contributed to make the elder law practice the most relevant practice for the foreseeable future. At the same time, rapidly changing events can lead to anxiety by NAELA members with concerns about the viability of their own practices. The dramatic increase in life expectancy (verified by the number of birthday cards printed by Hallmark for 100 year olds) combined with the baby boomer generation's

entrance into older age is the formula for a perfect storm.

NAELA members are looking to the organization for assistance so that they do not become buggy whip makers in an era of automobiles. They rightly expect this organization to assist in recognizing the major shifts and helping them adjust.

The beauty of the elder law practice is the fact that if we are healthy enough to live long enough and practice law long enough, we become our own clients. The graying of elder law practitioners is a potent force.

The practitioners who began to practice at the inception of elder law are now facing the very issues about which they counseled their clients. The shock experienced the first time that members are automatically given a senior citizen discount or receive the AARP magazine remind us that we are them, they are us. This is the first NAELA long range planning committee to hear questions from NAELA member about their own retirement. The members are asking for information about "exit strategies" for leaving their practices.

#5. NAELA shall design a level of membership and benefits to address the needs of experienced elder law practitioners.

After 15 years of existence, a body of very experienced elder law

attorneys has emerged. It is in the best interest of the Academy to keep the experienced practitioners involved. Every organization struggles with the balance between entering members and experienced members. NAELA has already seen the demand for educational programs aimed specifically toward experienced practitioners. This trend is likely to continue as more practitioners become more experienced.

Conclusion

It is not by accident or luck that NAELA has developed from its infancy to the mature organization that it is today. NAELA's growth is due in large part to an ongoing self-examination process. Progress is continuously evaluated and adjustments made. The Board of Directors and the management have recognized the need to constantly examine the external conditions within which we practice, the internal conditions of NAELA itself and make realistic assessments of how NAELA can continue to grow even in the light of events that were impossible to predict. The phenomenal success NAELA has enjoyed is no absolute guarantee of future greatness. Future accomplishments will require the same energy that was expended to bring us this far.

It is the hope of the members of the long-range committee that NAELA members will take the time to review the plan and debate its content. The committee has not presented this as an unalterable document. When it is time to prepare the *NAELA Quarterly* 30th Anniversary issue, we hope that it will examine a continuing history of accomplishments and a pathway for future growth from that point.

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