

The National Elder Law Section: A Retrospective 1999-2009

It has been ten years since the United Nations designated 1999 the *International Year of the Older Person* and, therefore, appropriate to recall the roots of our section which was first introduced that year.

During that international year CBA provincial conferences were held in Quebec and Ontario on issues of law and aging. Towards the end of 1999 I wrote an article for *The National* calling for the creation of a national network of lawyers who would inform themselves, on an ongoing basis, on the multifaceted issues of law and aging, to offer better services tailored to the needs to their older clients, and who would educate, and collaborate with, lawyers in other fields, with professionals in disciplines related to aging and with governments on elaborating laws, policies and best practices in the field of aging.

The new practice section on law and aging would be called "Elder Law" as the field had been named in the United States. Lawyers needed to be sensitized to the complex sociolegal needs and challenges affecting the lives of their aging clients. They also needed to be at policy and legislative tables nationally and provincially offering services of advocacy and legal research.

Two years later, having worked closely with National Sections over that time and with the mentorship of the American Bar Association's Commission on Legal Problems of the Elderly (now the Commission on Law and Aging), a detailed proposal was prepared and my resolution for the creation of the National Elder Law Section was submitted and seconded by Simon Potter, then Vice-President of the CBA in February 2002. It received unanimous assent from CBA's Council.

Our new section ushered in both a new field of practice at the national level and recognition for the first time in Canada of a new field of law.

Bob Kenny, Q.C. our pioneer in New Brunswick, had already set up the first provincial Elder Law Section.

Following recognition of the National Elder Law Section (NELS) I was fortunate to travel across the country to speak to several provincial CBA divisions and to see the inauguration throughout the 2002-2003 year of sections in Quebec, Newfoundland, Nova Scotia, Saskatchewan and Alberta. Hugh McLellan of British Columbia had come on board as Founding Vice-Chair following the creation of our new section to form a first executive with myself as Chair and Eric Lister of Manitoba acting as Founding Secretary-Treasurer. Hugh and Eric, in turn, founded their respective provincial sections. Nine provinces created sections that first year. Ontario preferred to study issues as they arose under existing sections and still maintains that position. We were also able to secure representations that first year from all three territories.

In our first year alone close to 500 lawyers and notaries joined our section, exceeding the membership in some longstanding sister sections. In the years since we have increased our numbers to approximately 1500, as of October 1, 2009.

The NELS Executive met regularly by phone during the first year to discuss our educational program and to plan our first Ottawa meeting with the Ministry of Justice and Health Canada. Certain related national sections joined us for these initial meetings: Health Law, Trusts and Estates and Family Law, all of whom maintain close and collaborative ties with us to this day. In our first year we also initiated meetings with the Canadian Bankers Association and evolved a draft best practices guide for advising on powers of attorney and the prevention of financial exploitation as well as elaborating an ethical guideline for an Elder Law practice with the American Bar Association. The following National Elder Law Section conferences, annual CLE conferences and our first online conference have been held over the past ten years:

National Elder Law Section Conferences

May 13-14, 2005 – Metropolitan Hotel, Toronto
Planning for Later Life: Legal, Financial and Social Challenges of Aging

March 24-25, 2006 – National Arts Centre, Ottawa
Planning for Later Life, Part II: A Critical Look at Legal, Financial and Marketing Solutions

June 15-16, 2007 – Delta Fredericton, Fredericton
Elder Law: The Dawn of a New Age

June 12-13, 2009 – Donald Gordon Conference Centre, Kingston
Elder Law: Theory and Practice

Annual CLEs

Montreal 2003, *Special Clients – Special Needs*
Elder Law: A Practice Area Coming of Age

Winnipeg 2004, *Cross Border Issues for Snowbirds and Roving Retirees*

Vancouver 2005, *Elder Abuse: Recognition and Responses*

St. John's, Newfoundland and Labrador 2006, *Power of Attorney – Best Practices*

Calgary, Alberta 2007, *Older Clients in the Health Care System: Hostage or Citizen?*

Online CLE

Online CLE 2007: *Advising the Elder Client*

Former CBA President Bill Johnson, Q.C., wrote me a note in 2004 during his tenure, congratulating our new section on becoming a *signature* section of the CBA.

We had hit the ground running as there was much to do and no time to lose.

As a result of the 1999 article in *The National* Lexis Nexis Butterworths contacted me in 2000 to write a book about Elder Law. That book, for which I had the privilege of serving as General Editor and as one of the authors, was an extraordinary national team effort amongst lawyers, doctors, gerontologists and criminologists. It introduced the basic concepts of the substantive law and important ethical and practice issues on a national and comparative law basis. *Advising the Older Client* was published in 2005, as a first Canadian legal text on the issues and theories of aging. It has been used by a number of law faculties to teach future lawyers. A second edition will appear in 2010.

Elder Law, or Law and Aging in its broad sense, was first taught nationally at the McGill Law Faculty in 2005 and is now offered, since 2007 as a clinical course at McGill through a specialized legal clinic serving the Quebec community. Elder Law has also been taught at the faculties of law of the universities of British Columbia, Alberta, Saskatchewan, at Queen's and at Dalhousie University. A comparative and international law course will be offered at the Masters of Law level at Université de Montréal in 2010.

Two national research and educational centres/institutes have grown up since 2002: the Centre for Elder Law Studies, a division of the B.C. Law Institute in Vancouver and the National Institute of Law, Policy and Aging in Montreal. A first conference of the National Judicial Institute on law and aging issues was given to B.C. judges in 2005.

The CBA demonstrated great leadership and vision in first recognizing and then providing a reference centre and national professional association for the development of this new field of law and of practice in Canada.

I am pleased to enclose a personal story reproduced in *Advising the Older Client* on the genesis of NELs. Also enclosed is the 1999 *The National* article still timely and relevant to our important mission of assuring the highest standards of professional legal service to our older clients, to those who play an important role in the lives of older persons and to society in general.

Ann Soden Ad.E.
Founding Chair
National Elder Law Section 2002-2004