

# Eye on elder issues

**EYE on ELDER ISSUES**  
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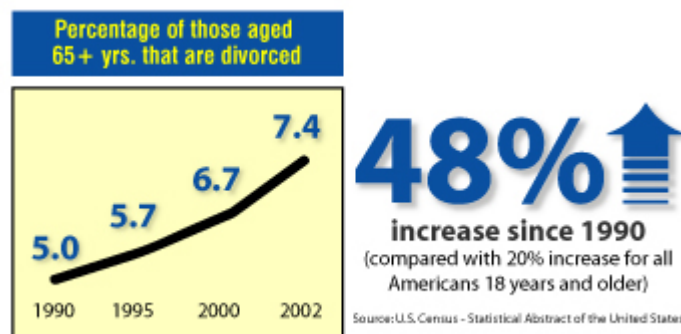
## **Divorces Among the Elderly are Alarming**

**What would you do if you found yourself in the following situation?**

You are in your late 60s and have been married for 35 years to a loving spouse who then becomes terminally ill. You both thought you would be married "till death do you part" and had saved enough money for a comfortable retirement. Your spouse is then diagnosed with Alzheimer's and he will most likely have to be institutionalized when the illness progresses. You are told that the average nursing home cost is \$5,000 per month (but may be as high as \$12,000 in some areas of the country). Upon consulting an elder law attorney, you find that there are only two choices available to you:

1. spend all your money on nursing home care for your ill spouse, leaving no money for you (or your dependent children) to live on
- OR
2. get a divorce and remain financially viable while your spouse's care is paid for by Medicaid.

This very case confronts members of our society every day. **Many elder law attorneys have expressed concern over increasing divorce rates among our nation's seniors.**



Many of these divorce actions involve elderly citizens who either have no or inadequate health care insurance or are facing long term care costs which far exceed their financial resources. **In many circumstances, both spouses are still competent and it is the ill spouse who is requiring very expensive medical or nursing home care and is insisting upon the divorce to protect their well spouse.** Most of these circumstances involve more common ailments such as strokes or other illnesses that are physically debilitating and can create problems for the long-term. Other cases involve individuals in their 50s and 60s with Lou Gehrig's disease, Multiple Sclerosis or Alzheimer's. Attorneys desperately look for alternative solutions, but often see couples who never intended to get divorced. The clients are emotionally devastated by the necessity to make the decision to do so at a time when they are most vulnerable. For a society that professes to adamantly support the institution of marriage, this is indeed a sad and desperate situation.

In most states, the average nursing home stay is three years. Using that statistic, **most well spouses will be impoverished in less than two years if they are using their own resources for nursing home care.** These situations often involve middle or lower income families where the financial benefit of divorce may seem modest. However, the typical family in this income bracket has a house worth less than \$100,000, savings (including pensions) of \$80,000 or less, and a very modest income. These assets are further stretched if the family includes an incapacitated child or sibling relying on the family for support as well.

**Losing \$60,000 to \$140,000 of lifetime savings each year and facing the possibility of a lien against their home leaves these elderly citizens with very few choices.** In most of these circumstances the family's income would not support the purchase of long term care insurance, and in other circumstances, poor health renders them ineligible. Even the most generous states are cutting back on the protections for the well spouse due to state budgetary cuts.

This creates concern among aging professionals who work with this segment of our population on a daily basis. They strongly believe it is **contrary to the intentions set forth by Congress and President Reagan in the Medicare Catastrophic Coverage Act that was intended to "end spousal impoverishment."** While divorce is certainly one avenue to provide for the family, attorneys are often searching for other solutions...all to no avail. In the end, it is the client's decision to make.

The wealthy are able to afford the cost of care or the purchase of long term care insurance. Those who have no homes and no savings will qualify for Medicaid. Thus, the challenges are met for those families. Unfortunately, it is middle-income families who can only survive by resorting to truly desperate measures. Thus, middle-income couples are again facing impoverishment. These clients often see their options as being limited to divorce, impoverishment, or suicide. **To most, the least distasteful alternative is often divorce.**



It is a sad commentary on our society that we force happy couples who have been married all their lives to divorce in order to survive and provide assets to continue living a modest lifestyle. Obviously, **further legislative changes are needed in the Medicare Catastrophic Coverage Act to avoid such a devastating and distasteful outcome.**



For more information about elder law attorneys and the National Academy of Elder Law Attorneys, visit <http://www.naela.org/>. Established in 1987, NAELA provides a resource of information, education, networking and assistance to those who deal with the many specialized issues involved with legal services to the elderly and people with special needs.

***Next month, Eye on Elder Issues will focus on "Promoting Independence For the Incapacitated."***

***Note to Our Readers:*** This e-newsletter, ***Eye on Elder Issues***, is presented as a public service by the National Academy of Elder Law Attorneys (NAELA). We are pleased to send you this issue and welcome your comments. You can expect to receive this newsletter monthly as NAELA explores, reports and provides insight on timely topics affecting our nation's seniors and their families. In addition, the growing population of

*Baby Boomers is addressing issues for themselves and their families that are new and unique. This publication is intended to explore those issues from all sides and to educate consumers, aging network professionals, law makers, and members of the media.*

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