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PREPARE FOR AGING POPULATION**

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NY Needs a Blue Ribbon Commission to Prepare for Aging Population



Patricia E. Salkin

According to the Administration on Aging, by the year 2030, there will be more people in the United States over age 65 than under age 15. By 2050, more than one-fifth of the population of the United States will be 65 or older and five percent of that group will be 85 years or older. Lawmakers and policy makers must begin now to develop a long-term, proactive strategy to help the State deal effectively and intelligently with the complex legal and social needs of the aging population.

New York should be a leader among the states by undertaking a study that prepares lawmakers and policymakers to consider myriad policy and legal issues that will confront older adults, family members and caregivers on a daily basis; offers different perspectives to aid in the development of better balanced and well-considered public policy decisions on issues related to aging; and provides a unique opportunity for a government forum that engages academics, advocates, consumers and policy makers in meaningful discussion of the appropriate role of government and public policy in addressing the needs of the growing number of older adults.

The New York State Office for the Aging has pointed the way with its Project 2015 study. A gubernatorial commission created by executive order that includes executive, legislative, advocacy group, business community, regulated community, academic and citizen participation will have the status, support and visibility needed to actually foster innovative cutting-edge changes in state policy. Among the tasks the commission should undertake is an analysis of the impact of the significantly shifting demographics on a wide array of public policy and laws,

and developing and assessing appropriate recommendations to address these challenges. One aspect of the commission's work should be formation of an inter-agency advisory group since most, if not all, executive agencies touch upon the lives of the senior population.

What follows is a brief overview of some of the issues that should be addressed. Civil litigation and the measure of damages for older adults are controversial topics that require inquiries into the elements of damages recovery in tort litigation, which are often measured by potential for future employment that may not provide appropriate relief to older adults. In the area of disabilities law, planning for adult disabled children and corporate guardianships are just two of the many challenges that must be addressed.

When deliberating employment laws and policies, it is essential to consider mandatory retirement ages, age discrimination, civil service requirements and job retraining. Controversial estate planning laws and policies include the intergenerational use of resources and the use of non-profits as attorneys-in-fact pursuant to powers of attorney. Family law issues such as rights and responsibilities involved in kinship care and civil orders of protection as a tool for protecting older adults from elder abuse need legislative attention. New York's guardianship laws need to be considered with respect to determining incapacity, tailoring of guardianship orders for persons with Alzheimer's disease, the use of mediation as a means of reducing the burden on the court system and public guardianship programs for indigents and persons without a friend or relative to serve as guardian.

The issues continue into the health

law and policy arena including changes in the consortium of health care services and their effects on traditional legal patient-physician relationships, human experimentation, and physician-assisted suicide and right-to-die debates. Long term care issues including the regulation of care providers and the availability of both services and insurance/funding must continue to be examined. The penal law system must consider the aging prison population and alternative punishments for older persons found guilty of criminal conduct. Real estate issues include considering the desires of seniors to age in place, while at the same time providing enough alternative housing options. Quality communities, zoning-enabling acts and real property tax issues need to be re-examined under the aging microscope. Satisfying the unmet legal needs of older adults with modest or low incomes is a growing challenge.

These are but a sampling of the diverse and complex legal and policy challenges that await New York State. None of these issues can be effectively addressed with a reactive "quick fix." They require and deserve thoughtful and reasoned public policy approaches to allow all New Yorkers to maintain a decent quality of life in the Empire State.

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