

# Aging Lawyers and Competency: How to Manage Age-Related Risks in Your Law Practice

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# Meet Mark:

Mark Bassingthwaighte, Esq., serves as Risk Manager at [ALPS](#), a leading provider of insurance and risk management solutions for law firms. Since joining ALPS in 1998, Mark has worked with more than 1200 law firms nationwide, helping attorneys identify vulnerabilities, strengthen firm operations, and reduce professional liability risks.

He has presented over 700 continuing legal education (CLE) seminars across the United States and written extensively on the topics of risk management, legal ethics, and cyber security.

A trusted voice in the legal community, Mark is a member of the State Bar of Montana and the American Bar Association and holds a J.D. from Drake University Law School. His mission is to help attorneys build safer, more resilient practices in a rapidly evolving legal environment.



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### **A Conversation That Sparked a Larger Reflection:**

In the middle of a conversation with one of our insureds about the difficulty of learning to say no, the fine gentleman I was speaking with suddenly shifted gears. He wanted me to know he was fully aware of his age and had already taken steps to ensure he continues to practice law competently. What struck me most was his willingness to ask colleagues to tell him if they ever noticed him starting to slip mentally, because in his words, “the day will come when...” This level of self-awareness is rare; and as a risk manager, I found it reassuring.

### **Growing Old Gracefully as a Legal Professional:**

This lawyer is someone I would describe as aging gracefully. He’s not in denial, and he’s not fighting the aging process tooth and nail. Instead, he recognizes that age brings certain risks, and he’s doing something about it. His comments prompted me to take a closer look at several age-related risks lawyers face and how to responsibly manage them.

### **The Risk of Unexpected Absences:**

One of the most obvious risks associated with aging is an unexpected event, for example, a medical crisis or other emergency that results in a short- or long-term absence. Should this happen, someone must step in and temporarily take responsibility for your client matters, even if you’re not a solo practitioner.

Of course, for solos, this issue is especially significant. It underscores the absolute necessity of having a backup attorney in place. Regardless of your age, if you haven’t already identified one, now is the time.

### **The Importance of Keeping File Status Current:**

Next, don’t overlook the related file status problem. Lawyers don’t always keep files as current as they should. I believe for many it’s a time and trust thing. There’s never enough time and just about everyone trusts their own memory. Here’s the problem with that line of thinking. Memory isn’t as trustworthy as one ages, and if you’re not available due to an unexpected event, it doesn’t matter anyway.

Committing to keeping all file statuses current always is essential, no matter your practice setting. It's one of the simplest ways to reduce risk.

### Subtle, Gradual Risks of Aging:

Beyond sudden events, aging brings subtle risks that often develop gradually. Sooner or later, most lawyers notice that their memory, hearing, or vision isn't as sharp as it once was. I've heard a wide range of concerns:

- Difficulty seeing everything clearly on a computer screen, leading to fears of misreading information or entering incorrect dates.
- Increasing forgetfulness and the worry that it's only a matter of time before a hearing is missed or a filing deadline slips by.
- Anxiety about hearing loss, especially the fear of mishearing a client or judge, but feeling too embarrassed to ask for something to be repeated.

These concerns are real, and they're more common than many lawyers admit.

### Practical Steps to Address Age-Related Risks:

Fortunately, there are many ways to address these risks proactively.

- Use checklists to ensure nothing is overlooked.
- Seek additional training on your office technology because as tech evolves, so does the standard of care.
- Prioritize relevant CLE to stay current in your practice areas. Decades of experience don't eliminate your obligation to keep up with changes in the law.
- Be open to slowing down when necessary. At some point, the time and energy required to stay on top of everything may no longer be there. This might mean taking fewer matters or stepping away from certain types of work.

Proactive planning isn't an admission of decline; it's a hallmark of professionalism.



### Addressing Visual and Hearing Challenges:

Some age-related challenges have simple solutions. A larger monitor or adjusted screen setting can resolve many visual issues. If hearing is a concern, schedule a hearing evaluation. The goal is to work on the problem, not ignore it.

### Risks in Long-Term Attorney–Client Relationships:

A final risk worth noting involves long-term attorney–client relationships. First, remember that these clients are aging too. As their needs change, they may ask for help in areas outside your expertise. It can be hard to say no, but sometimes that’s exactly what is required. Refer the matter out or take the necessary time to come up to speed. Anything less invites trouble. Second, be mindful of the possibility that some long-term clients may be experiencing forgetfulness or confusion. Take the time needed to ensure they understand your advice and thoroughly document your files focusing not only on the advice given, but on the decision-making process as well.

### Aging Gracefully in the Practice of Law:

In summary, since no one has found a way to stop the aging process, the day will eventually come when it’s time to step away from practice. Until that day arrives, do all you can to age gracefully. Be aware of your limitations as they arise and be open to hearing the concerns of others. Identify your specific risks and take steps to responsibly address them.

I say this because I’ve had to sit down with a few solos over the years and be the one to tell them their time had come. Trust me when I say that aging gracefully is the better choice.