



WHAT LEGAL STEPS SHOULD I TAKE AFTER A DEMENTIA DIAGNOSIS?

LEGAL GUIDE FOR DEMENTIA CARE

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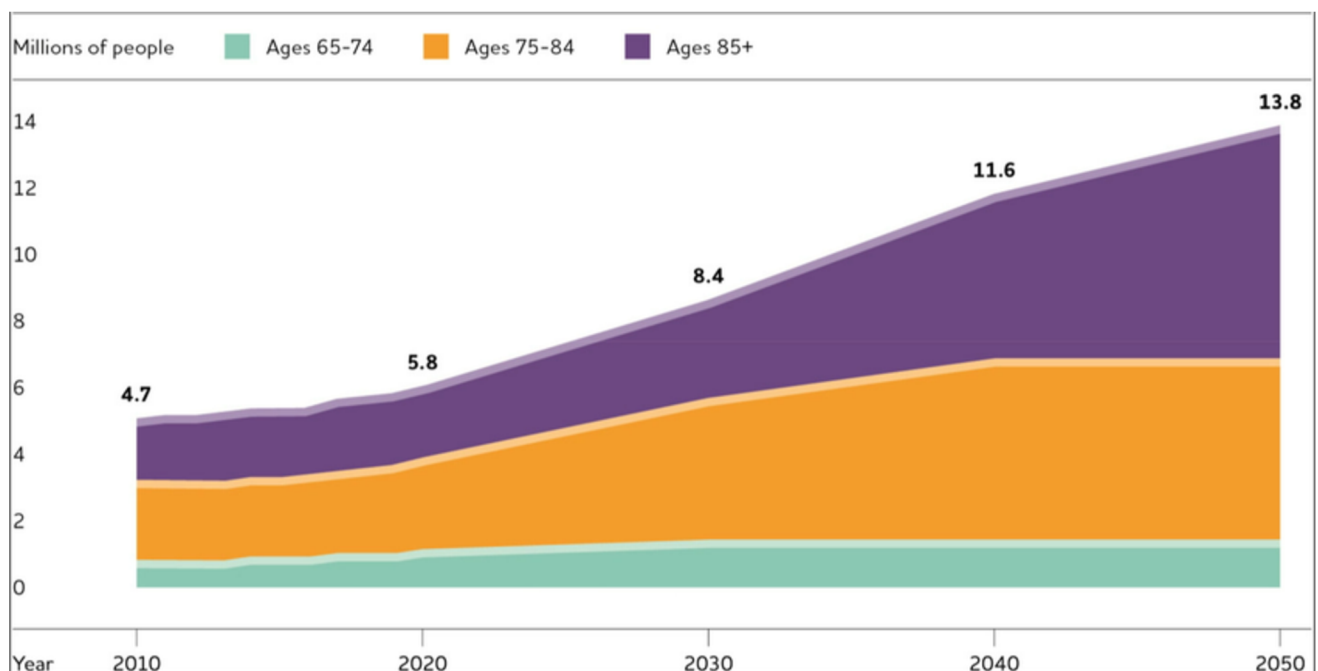
THE ALZHEIMER'S ALLIANCE, BY WAY OF THIS GUIDE, IS NOT OFFERING LEGAL ADVICE. THIS GUIDE IS INTENDED TO BE FOR INFORMATIONAL PURPOSES ONLY. BEFORE RELYING ON ANY INFORMATION CONTAINED HEREIN, THE READER SHOULD CONSULT AN ELDER LAW ATTORNEY.

WHY THIS GUIDE WAS CREATED

Whenever we speak to clients who are caregivers to a loved one with dementia, legal questions always come up. In 2022, Alzheimer's and other dementias cost the nation \$321 billion. By 2050, these costs could rise to nearly \$1 trillion. Alzheimer's is one of the most expensive diseases in the United States, and legal issues can be a part of that.

The legal challenges surrounding dementia can be confusing. We hope this guide helps families navigate some of the most common issues and plan ahead for this difficult journey. When you plan ahead, you and your loved one can have peace of mind and focus on what is important: creating the best quality of life possible and enjoying your time with your loved one.

ALZHEIMER'S CASES PROJECTED BY 2050



Alzheimer's Association

DEMENTIA VS INCAPACITY

A diagnosis of Alzheimer's or another kind of dementia in and of itself does not mean that you are legally incapacitated. People diagnosed early often still have the capacity to do legal planning. As the disease progresses, capacity diminishes so it is important to seek legal advice early in the process.



LOCAL RESOURCES

For a list of elder care or estate planning attorneys, call the Alzheimer's Alliance office at 903-509-8323.



1-800-442-8845
easttexasaaa.org



Office of the Independent Ombudsman
for State Supported Living Centers

877-323-6466
SSLC.Ombudsman@hhs.texas.gov



Legal Line
Free Legal Advice Phone Clinic
(800) 354-1889 x1529



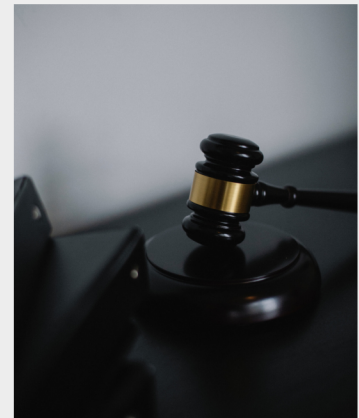
Texas Department of
Family and Protective Services

If you suspect someone is being abused or exploited, call the Texas Department of Family and Protective Services at 1-800-252-5400 or visit txabusehotline.org.

TOP 3 MISTAKES FAMILIES MAKE

"THOUGH THOSE WITH ALZHEIMER'S MIGHT FORGET US, WE AS A SOCIETY MUST REMEMBER THEM."

-SCOTT KIRSCHENBAUM, FILMMAKER



1 PLANNING ONLY FOR DEATH AND NOT INCAPACITY

Many people have wills but do not have a power of attorney—wills only deal with your estate after you are gone. POAs are necessary to protect you and your estate during incapacity while you are alive.

2 RELYING ON BAD INFORMATION

There is so much information to sort through these days. There is lots of bad info out there. Seek good advice to protect you and your loved ones.

3 NEGLECTING TO PLAN

80% of people over 65 will need to access long-term care. You may not be living with dementia but plan for the possibility. No matter how complex or simple your life and business are, there are certain things that are imperative for everyone to have in place.

Power of Attorney vs. Guardianship

A Power of Attorney is a legal document where the individual chooses and appoints someone they trust to handle their affairs in the event that they become incapacitated.

Guardianship is a court proceeding wherein a judge considers evidence to determine if the individual is incapacitated, what, if any, rights the incapacitated person should retain or be stripped of, and who should be legally appointed as decision maker for the incapacitated person.

Power of Attorney is almost always preferable as it allows the individual more control over the selection, powers given, and avoids difficult and burdensome legal proceedings and costs.

DEMENTIA LEGAL PLANNING CHECKLIST

YOU SHOULD COMPLETE OR UPDATE THE FOLLOWING LEGAL PLANNING FORMS AS SOON AS POSSIBLE AFTER A DEMENTIA DIAGNOSIS OR SUSPECTED DEMENTIA:

- Durable Power of Attorney for Finances
- Durable Power of Attorney for Health Care
- Health Care Directive
- Living with Dementia Mental Health Advance Directive

OTHER LETTERS AND FORMS YOU SHOULD CONSIDER COMPLETING NOW INCLUDE:

- A form or letter to care partners about your health care values
- A list of your closest family and friends, agents, doctors, lawyers, accountants, financial planners, and others who may have important medical, legal, or financial information about you. Clearly label each person's relationship to you and confirm their information is accurate and up-to-date.
- A list of important passwords and documents, including legal planning forms, and where they are located
- Out of Hospital Do Not Resuscitate Order
- A Last Will and Testament or Trust

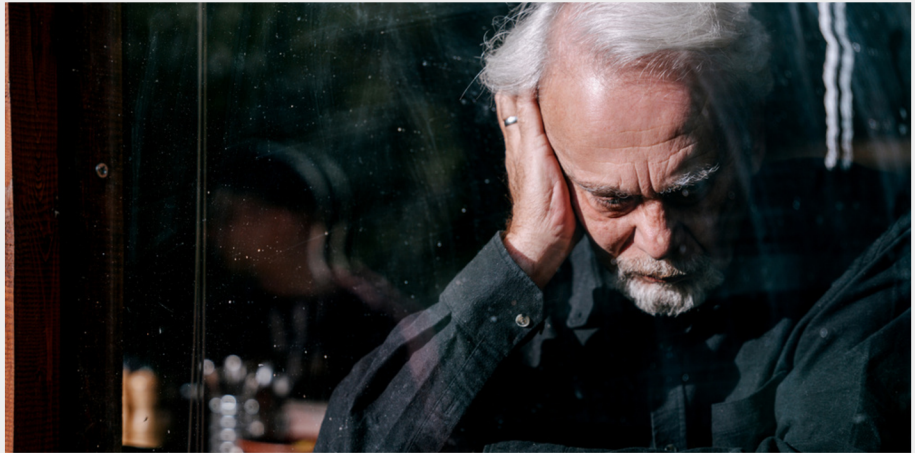
Call the Alzheimer's Alliance office to speak to a social worker with questions about any of these documents.

EXPLOITATION AND ABUSE

Adults over 65 or people with dementia may be more at risk of abuse or exploitation.

Abuse may cause various injuries such as scratches, cuts, bruises, burns, broken bones, or bedsores. It can also result in

confinement, rape or sexual misconduct, and verbal or psychological abuse.



Neglect may cause starvation, dehydration, over- or under-medication, unsanitary living conditions, lack of personal hygiene. Neglected adults may also not have heat, running water, electricity, medical care.

Exploitation may result in loss of property, money, or income. Exploitation means misusing the resources of an elderly or disabled person for personal or monetary benefit. This includes taking Social Security or SSI (Supplemental Security Income) checks, misusing a joint checking account, or taking property and other resources. If you suspect someone is being abused or exploited, call the Texas Department of Family and Protective Services at 1-800-252-5400 or visit txabusehotline.org.

MYTHS ABOUT DEMENTIA AND THE LAW

"MY HEALTH INSURANCE WILL PAY FOR LONG-TERM CARE."

Your health insurance does not cover long-term care such as skilled nursing, memory care, assisted living or in-home caregiving. Medicare can cover short-term rehab but there are only three ways to pay for long-term care: long-term care insurance, private pay out-of-pocket or benefit assistance programs.

"I CANNOT GET BENEFIT ASSISTANCE BEFORE I GO BROKE."

Benefit assistance program such as Medicaid have income and asset limits for eligibility. While it is a common belief that these benefits are only available to the indigent, these benefits are a lot more accessible than most believe. With proper planning and advice,

you can access to these benefits necessary for your long-term care while still preserving income and assets for you and your family.

"I HAVE A WILL AND THAT IS ALL I NEED."

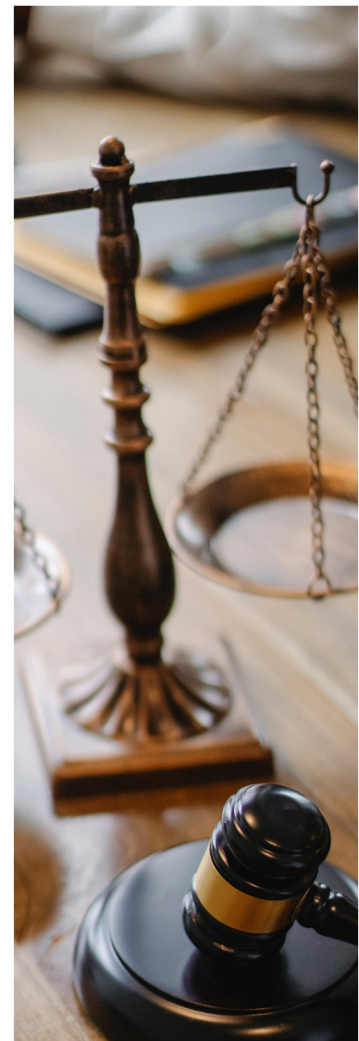
A will does little to nothing to protect during incapacity. In fact, a will legally means nothing until you die. Powers of Attorney and Trusts are much more effective legal tools for a person living with dementia. These documents are necessary for managing your healthcare, finances and every day business during incapacity.

"I WILL LOSE MY HOME IF I GO TO A NURSING HOME."

You will never be forced to sell your home to receive benefit assistance for long-term care. If you do receive benefit assistance for long-term care, the State, not the nursing home, may have a claim against your estate after you die and that can include your home. However, with proper planning, you can receive benefit assistance and protect and preserve your home.

"I HAVE BEEN DIAGNOSED WITH DEMENTIA SO IT IS TOO LATE TO PLAN."

A diagnosis of Alzheimer's or another dementia in and of itself does not mean that you are legally incapacitated. People diagnosed early often still have the capacity to do legal planning. As the disease progresses, capacity diminishes so it is important to seek legal advice early in the process.



SPECIAL THANKS



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the Texas Bar Foundation



Kline Pillow | Ross and Shoalmire Elder Law



United States Attorney's Office
Eastern District of Texas



Texas Department of Family and Protective
Services