

# Legal and Financial Planning for People with Alzheimer's Disease

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## FACT SHEET

### Legal and Financial Planning for People with Alzheimer's Disease — Get the Facts

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**M**any people are unprepared to deal with the legal and financial consequences of a serious illness such as Alzheimer's disease. Legal and medical experts encourage people recently diagnosed with a serious illness—particularly one that is expected to cause declining mental and physical health—to examine and update their financial and healthcare arrangements as soon as possible. Basic legal and financial instruments, such as a will, a living trust, and advance directives, are available to ensure that the person's late-stage or

end-of-life healthcare and financial decisions are carried out.

A complication of diseases such as Alzheimer's is that the person may lack or gradually lose the ability to think clearly. This change affects his or her ability to make decisions and participate in legal and financial planning. Although difficult questions often arise, advance planning can help people with Alzheimer's and their families clarify their wishes and make well-informed decisions about health care and financial arrangements.

When possible, advance planning should take place soon after a diagnosis of early-stage Alzheimer's while the person can participate in discussions. People with early-stage disease can often understand many aspects and consequences of legal decision making. However, legal and medical experts say that many forms of planning can help the person and his or her family even if the person is diagnosed with later-stage Alzheimer's.

There are good reasons to retain a lawyer when preparing advance planning documents. For example, a lawyer can help interpret different State laws and suggest ways to ensure that the person's and family's wishes are carried out. It's important to understand that laws

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vary by State, and changes in a person's situation—for instance, a divorce, relocation, or death in the family—can influence how documents are prepared and maintained.

## **Legal, Financial, and Healthcare Planning Documents**

When families begin the legal planning process, there are a number of strategies and legal documents they need to discuss. Depending on the family situation and the applicable State laws, a lawyer may introduce some or all of the following terms and documents to assist in this process. Broadly speaking, these documents can be divided into two groups:

- documents that communicate the healthcare wishes of someone who may no longer be able to make healthcare decisions
- documents that communicate the financial management and estate plan wishes of someone who may no longer be able to make financial decisions

## **Advance Directives for Health Care**

Advance directives for health care are documents that communicate the healthcare wishes of a person with Alzheimer's disease. These decisions are then carried out after the person no longer can make decisions. In most cases, these documents must be prepared while the person is legally able to execute them.

A **Living Will** records a person's wishes for medical treatment near the end of life or if the person is permanently unconscious and cannot make decisions about emergency treatment. It may do the following:

- specify the extent of life-sustaining treatment and major health care the person wants

- help a terminally ill person die with dignity
- protect the physician or hospital from liability for carrying out the patient's instructions
- specify how much discretion the person gives to his or her proxy (discussed below) about end-of-life decisions

A **Durable Power of Attorney for Health Care** designates a person, sometimes called an agent or proxy, to make healthcare decisions when the person with Alzheimer's disease no longer can do so. Depending on State laws and the person's preferences, the proxy might be authorized to:

- refuse or agree to treatments
- change healthcare providers
- remove the person from an institution
- decide about making organ donations
- decide about starting or continuing life support (if not specified in a living will)
- decide whether the person with Alzheimer's will end life at home or in a facility
- have access to medical records

A **Do Not Resuscitate (DNR) Order** instructs healthcare professionals not to perform cardiopulmonary resuscitation (CPR) if a person's heart stops or if he or she stops breathing. A DNR order is signed by a doctor and put in a person's medical chart.

## **Advance Directives for Financial and Estate Management**

Advance directives for financial and estate management must be created while the person with Alzheimer's still can make

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these decisions (sometimes referred to as “having legal capacity” to make decisions). These directives may include some or all of the following:

A **Will** indicates how a person’s assets and estate will be distributed upon death. It also can specify:

- arrangements for care of minors
- gifts
- trusts to manage the estate
- funeral and/or burial arrangements

Medical and legal experts say that the newly diagnosed person with Alzheimer’s and his or her family should move quickly to make or update a will and secure the estate.

**A Durable Power of Attorney for Finances** names someone to make financial decisions when the person with Alzheimer’s disease can no longer do so. It can help people with the disease and their families avoid court actions that may take away control of financial affairs.

**A Living Trust** provides instructions about the person’s estate and appoints someone, called the trustee, to hold title to property and funds for the beneficiaries. The trustee follows these instructions after the person no longer can manage his or her affairs.

The person with Alzheimer’s disease also can name the trustee as the healthcare proxy through the durable power of attorney for health care.

A living trust can:

- include a wide range of property
- provide a detailed plan for property disposition

- avoid the expense and delay of probate (in which the courts establish the validity of a will)
- state how property should be distributed when the last beneficiary dies and whether the trust should continue to benefit others

## **Who Can Help?**

**Healthcare Providers**—Healthcare providers cannot act as legal or financial advisors, but they can encourage planning discussions between patients and their families. Qualified clinicians can also guide patients, families, the care team, attorneys, and judges regarding the patient’s ability to make decisions. Medicare covers advance care planning discussions between doctors and their patients.

**Elder Law Attorneys (ELAs)**—An ELA helps older people and families:

- interpret State laws
- plan how their wishes will be carried out
- understand their financial options
- learn how to preserve financial assets while caring for a loved one

The National Academy of Elder Law Attorneys and the American Bar Association can help families find qualified ELAs. See the list of resources at the end of this fact sheet for more information.

**Geriatric Care Managers (GCMs)**—GCMs are trained social workers or nurses who can help people with Alzheimer’s disease and their families:

- discuss difficult topics and complex issues

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- address emotional concerns
  - make short- and long-term plans
  - evaluate in-home care needs
  - select care personnel
  - coordinate medical services
  - evaluate other living arrangements
  - provide caregiver stress relief

### **Steps for Getting Your Affairs in Order**

- **Gather everything you can about your income, property, investments, insurance, and savings.**
- **Put copies of legal documents and other important papers in one place.** You could set up a file, put everything in a desk or dresser drawer, or just list the information and location of papers in a notebook. If your papers are in a safe deposit box, keep copies in a file at home. Check regularly to see if there's anything new to add.
- **Tell a trusted family member or friend where you put your important papers.** You don't need to tell this friend or family member about your personal affairs, but someone should know where you keep your papers in case of emergency. If you don't have a relative or friend you trust, ask a lawyer to help.
- **Give permission in advance for your doctor or lawyer to talk with your caregiver as needed.** There may be questions about your care, a bill, or a health insurance claim. Without your consent, your caregiver may not be able to get needed information. You can give your okay in advance to Medicare, a credit card company, your bank, or your doctor. You may need to sign and return a form.

### **Other Planning Advice**

***Start discussions early.*** The rate of decline differs for each person with Alzheimer's disease, and his or her ability to be involved in planning will decline over time. People in the early stages of the disease may be able to understand the issues, but they may also be defensive or emotionally unable to deal with difficult questions. Remember that not all people are diagnosed at an early stage. Decision making already may be difficult when Alzheimer's disease is diagnosed.

***Review plans over time.*** Changes in personal situations—such as a divorce, relocation, or death in the family—and in State laws can affect how legal documents are prepared and maintained. Review plans regularly, and update documents as needed.

***Reduce anxiety about funeral and burial arrangements.*** Advance planning for the funeral and burial can provide a sense of peace and reduce anxiety for both the person with Alzheimer's and the family.

### **Resources for Low-Income Families**

Families who cannot afford a lawyer still can do advance planning. Samples of basic health planning documents are available online. Area Agency on Aging officials may provide legal advice or help. Other possible sources of legal assistance and referral include State legal aid offices, State bar associations, local nonprofit agencies, foundations, and social service agencies.

<b>Overview of Medical, Legal, and Financial Planning Documents</b>	
<b>Medical Document</b>	<b>How It Is Used</b>
Living Will	Describes and instructs how the person wants end-of-life health care managed
Durable Power of Attorney for Health Care	Gives a designated person the authority to make healthcare decisions on behalf of the person with Alzheimer's
Do Not Resuscitate Order	Instructs healthcare professionals not to perform CPR in case of stopped heart or stopped breathing
<b>Legal/Financial Document</b>	<b>How It Is Used</b>
Will	Indicates how a person's assets and estate will be distributed among beneficiaries after his/her death
Durable Power of Attorney for Finances	Gives a designated person the authority to make legal/financial decisions on behalf of the person with Alzheimer's
Living Trust	Gives a designated person (trustee) the authority to hold and distribute property and funds for the person with Alzheimer's

## Summary

Facing Alzheimer's disease can be emotionally wrenching for all concerned. A legal expert and members of the healthcare team can help the person and family address end-of-life issues. Advance healthcare and financial planning can help people diagnosed with Alzheimer's and their families confront tough questions about future treatment, caregiving, and legal arrangements.

## For More Information

### **Alzheimer's and related Dementias Education and Referral (ADEAR) Center**

1-800-438-4380 (toll-free)

[adear@nia.nih.gov](mailto:adear@nia.nih.gov)

[www.alzheimers.gov](http://www.alzheimers.gov)

The National Institute on Aging's ADEAR Center offers information and publications for families, caregivers, and professionals on diagnosis, treatment, patient care, caregiver needs, long-term care, education and training, and research related to Alzheimer's disease and related dementias. Staff members answer telephone, email, and written requests and make referrals to local and national resources. Visit the ADEAR website to learn more about Alzheimer's and related dementias, find clinical trials, and sign up for email updates.

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**National Institute on Aging  
Information Center**

1-800-222-2225 (toll-free)  
1-800-222-4225 (TTY/toll-free)  
niaic@nia.nih.gov  
[www.nia.nih.gov](http://www.nia.nih.gov)

The National Institute on Aging offers helpful publications about advance care planning, getting your affairs in order, end of life, and caregiving. Visit [www.nia.nih.gov/health](http://www.nia.nih.gov/health).

**AARP**

1-888-687-2277 (toll-free)  
1-877-434-7598 (TTY/toll-free)  
[www.aarp.org](http://www.aarp.org)

**Aging Life Care Association**

1-520-881-8008  
[www.aginglifecare.org](http://www.aginglifecare.org)

**Aging with Dignity**

1-850-681-2010  
fivewishes@agingwithdignity.org  
[www.agingwithdignity.org](http://www.agingwithdignity.org)

**Alzheimer's Association**

1-800-272-3900 (toll-free)  
1-866-403-3073 (TTY/toll-free)  
info@alz.org  
[www.alz.org](http://www.alz.org)

**American Bar Association**

Commission on Law and Aging  
1-202-662-8690  
aging@americanbar.org  
[www.americanbar.org/aging](http://www.americanbar.org/aging)

**Eldercare Locator**

1-800-677-1116 (toll-free)  
[www.eldercare.gov](http://www.eldercare.gov)

**Family Caregiver Alliance**

1-800-445-8106 (toll-free)  
info@caregiver.org  
[www.caregiver.org](http://www.caregiver.org)

**National Academy of Elder  
Law Attorneys**

1-703-942-5711  
naela@naela.org  
[www.naela.org](http://www.naela.org)

**National Hospice and Palliative  
Care Organization**

1-703-837-1500  
nhpco\_info@nhpco.org  
[www.caringinfo.org](http://www.caringinfo.org)

**National Library of Medicine  
MedlinePlus**

[www.medlineplus.gov](http://www.medlineplus.gov)

Search for:

“Advance Directives”  
“End-of-Life Issues”

**OrganDonor.gov**

1-888-275-4772 (toll-free)  
1-877-489-4772 (TTY/toll-free)  
donation@hrsa.gov  
[www.organdonor.gov](http://www.organdonor.gov)



National Institute on Aging  
National Institutes of Health  
*NIH...Turning Discovery Into Health®*  
U.S. Department of Health and Human Services