

My loved one has been diagnosed with Alzheimer's disease, now what?

By *Linda T. Cammuso*

It is estimated that about five million Americans suffer from Alzheimer's disease, and about 360,000 people are newly diagnosed each year. Receiving a diagnosis of Alzheimer's or some other form of dementia is devastating news to individuals and their families. Often the first question is whether it is too late for a person with dementia to do any planning for their legal, financial and healthcare needs.



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It is important to understand that a medical diagnosis of memory loss, dementia or Alzheimer's does not mean that a person is legally incapacitated. In fact, the law presumes that a person is legally competent until a court has declared the person to be incompetent. The reality, however, is that people with significant impairments due to dementia will eventu-

ally face a situation where someone finds them lacking the capacity to make a decision, whether it's their doctor, attorney, bank teller or even their own family member. The key is to plan before it is too late.

A diagnosis of memory loss or dementia is a call to action. Individuals and their families receiving this news should immediately evaluate the adequacy of their legal and financial planning. Even if planning has been done in the past, it should be reviewed to make sure it is in compliance with current laws and adequately reflects the individual's intent. Proper planning will keep people in control of their lives, even as their abilities become diminished, by ensuring that decisions are made in accordance with their wishes and that their privacy and dignity are maintained.

The first thing to consider is whether



the person has designated someone to make financial and healthcare decisions under a durable power of attorney and healthcare proxy. If the individual does not have these documents, they should be signed immediately. Without a designated decision maker for health and financial issues, a court-supervised guardianship or conservatorship may be required. These proceedings are very costly and open to the public record.

If powers of attorney and health care proxies do exist, they should be dated as recently as possible since banks, doctors and others are leery of documents that were signed many years ago. A good rule of thumb is to update these documents every two years. Existing documents should also be reviewed to ensure that the people named as agents are still alive and able to serve. Many

powers of attorney and health care proxies have been rendered useless because they named a spouse or relative who had since passed away.

Dispositive documents such as wills and trusts should also be reviewed. If there is no will or trust, or if the existing ones are outdated, these documents should be prepared immediately. Once a person loses capacity, it is too late to sign a will and the default laws of the state determine who will inherit the assets.

If you or your loved one has been diagnosed with dementia, or even if you are starting to suspect that you or someone in your life is starting to mentally decline, the time to act is now. Consult a qualified estate planning/elder law attorney. Tomorrow may be uncertain, but you can make the right choice today.

Linda T. Cammuso, a founding partner at Estate Preservation Law Offices and an estate planning professional, has extensive experience in elder law and long-term care planning. Linda may be reached at www.estatepreservationlaw.com or by calling 508-751-5010.