



Dementia Friendly Legal Services



People with dementia experience a progressive decline in decision-making and personal independence. Discussions about financial matters and long-term care early in the disease process help ensure that wishes are honored. Difficulties with “executive function” (the ability to manage one’s life) are often the first signs of dementia. Legal professionals who recognize and understand dementia are a vital link to local services for people with dementia and their caregivers.



Applying Basic Parameters

- People with dementia may have the capacity right now to manage their own legal and financial affairs.
- As long as the person with dementia has legal capacity, he or she should actively participate in planning.
- As dementia advances, he or she will need to rely on others to act in their best interest.
- Caregivers, when available, take on more and more decision-making for the person with dementia and need to be involved in discussions when appropriate.

What is Dementia?

Dementia is a general term for a loss of memory and other thinking abilities that is serious enough to interfere with activities of daily life. Dementia has many causes. Alzheimer’s disease, the most common cause of dementia, is a disease of the brain that leads to problems with memory, thinking, and behavior. Alzheimer’s and other dementias are not a normal part of aging.

Warning Signs of Alzheimer's Disease

- Memory loss that disrupts daily life
- Challenges in planning or solving problems
- Difficulty completing familiar tasks at home, at work or at leisure
- Confusion with time or place
- Trouble understanding visual images and spatial relationships
- New problems with words in speaking or writing
- Misplacing things and losing the ability to retrace steps
- Decreased or poor judgment
- Withdrawal from work or social activities
- Changes in mood and personality

Interacting with People with Dementia

- Speak clearly and be patient
- Listen closely
- Smile warmly and make eye contact
- Respond to a look of distress
- Help when confusion is present
- Watch for signs of change and offer help accordingly – every day can be different

Assessing Capacity

To assess a client's capacity, follow the guidelines in Assessment of Older Adults with Diminished Capacity: A Handbook for Lawyers (www.apa.org/pi/aging/resources/guides/diminished-capacity.pdf)

Empowering a Person with Diminished Capacity

- Assume the person can rather than cannot
- Talk with the person in the moment
- Honor long-term patterns, values, and goals
- Offer choices on non-critical issues, even when it's obvious the person may make poor choices
- Understand the person's reality
 - Using logic, reasoning, and facts may only frustrate
 - Suggest: "We can (do/talk about) this later"
- Redirect communication
 - Help the person find the word they seemingly want to express
- Offer a list of options
- Look for meaning in the context of what's being said
- Suggest: "It will come to you in a minute"; and "It wasn't that important"
- Topic of money
 - Discuss finances
 - Have the person sign checks as long as he or she is able
 - Make sure the person has access to spending money
 - Ask what he or she wants and do your best to honor their wishes

Characterizing a Dementia Friendly Legal Professional

- Knows the fundamentals and common forms of dementia
- Understands the spectrum of capacity
- Has the skills to do basic screening for capacity and to communicate
- Ensures that the client understands the legal options and implication of choices being made before moving forward
- Knows the legal issues and risks faced by persons with dementia and their loved ones
- Focuses on empowering persons with dementia, while still protecting them from abuse
- Is aware of the ethical issues of representing a client with diminished capacity, multi party representation, conflicts, confidentiality, and competence
- Reassesses capacity on an ongoing basis
- Is well-connected with community programs and services
- Is sensitive to cultural differences

Adopting Dementia Supportive Best Practices

- All staff trained on dementia recognition and diminished capacity
- All staff trained on basic communication techniques, aging process, disability concerns, and stereotypes
- Interview client alone (unless client asks for support person); stress confidentiality
- Develop ongoing relationship with capacity assessment specialists
- Be familiar with legal tests of capacity for common legal transactions
- Understand Model Rules of Professional Conduct Rule 1.14 Client with Diminished Capacity and commentary

Advance Directives for Health Care and Financial Management

- Honor the beliefs, values and wishes of the person with dementia
- Empower the person to participate to the extent possible
- Plan for declining capacity due to dementia
- Avoid abuse, fraud and undue influence in planning
- Protect the person from potential abuse, neglect and exploitation

Why it's Important to Plan

- Dementia is progressive and a decline in capacity is expected (some research shows financial management may be the first skill to decline)
- Need to ensure expenses are paid
- Want to avoid squandering resources
- Planning helps avoid guardianship
- Planning helps prevent abuse, neglect and exploitation

Resources in Your Community

Alzheimer's Association Minnesota North Dakota

The 24/7 Helpline serves people with memory loss, care partners, health care professionals, the general public, diverse populations, and concerned friends and family. The Helpline offers referrals to local community programs and services, dementia-related education, crisis assistance and emotional support. Call 1-800-272-3900 or visit www.alz.org/mnnd

Senior LinkAge Line®

This resource provides information, assistance and connections to various services and resources in your community. Call 1-800-333-2433 or visit www.MinnesotaHelp.info®

References

Know the 10 Warning Signs

www.alz.org/alzheimers_disease_know_the_10_signs.asp



Learn more about working with people with dementia, assessing client capacity, advance directives for health care and financial management for persons with Alzheimer's, and elder abuse, neglect and exploitation by visiting the Commission on Law and Aging and the Administration for Community Living.

Webinars for legal professionals:

www.aoa.gov/AoA_Programs/HPW/ALz_Grants/index.aspx

Content and review of Dementia Friendly Legal Services was provided by the American Bar Association Commission on Law and Aging.

Minnesotans working together to transform Alzheimer's through social change and community engagement.

