



Dementia Legal Planning Toolkit



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Aging and Disability Services

Area Agency on Aging for Seattle and King County



Established in 2016, the Dementia Action Collaborative is a group of public-private partners committed to preparing Washington state for the growth of the dementia population.



In 2019, the Dementia Action Collaborative attained state funding for DSHS/Aging and Long-Term Supports Administration (AL TSA) to promote early legal and advance care planning to support persons with Dementia.

1. Raise consumer awareness around the importance of early legal and advance care planning;
2. Enhance attorney knowledge by developing legal education programs; and
3. Provide pro bono legal services that support persons with Dementia and their families in areas of legal and advance care planning.



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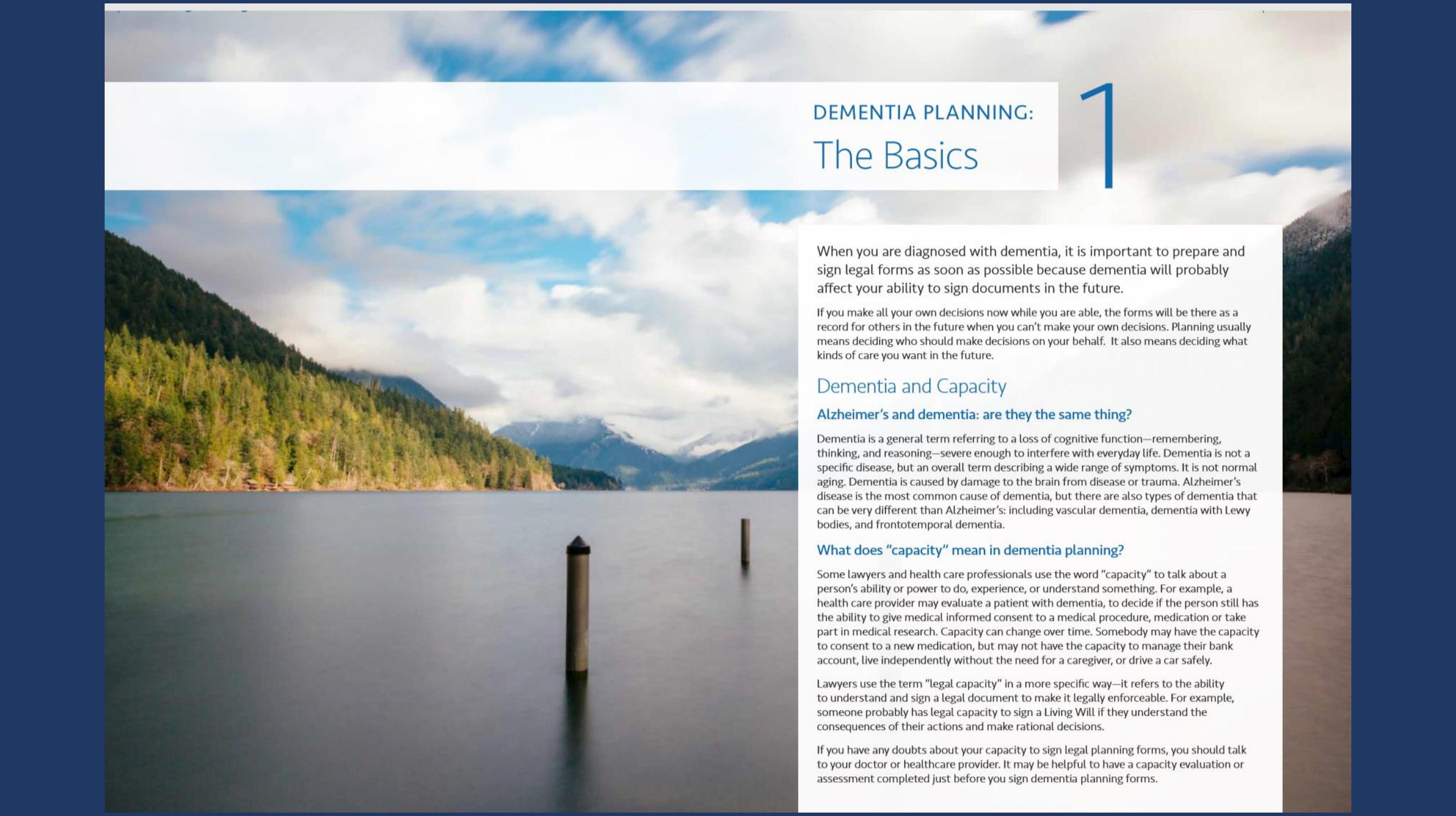
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DEMENTIA PLANNING: The Basics

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When you are diagnosed with dementia, it is important to prepare and sign legal forms as soon as possible because dementia will probably affect your ability to sign documents in the future.

If you make all your own decisions now while you are able, the forms will be there as a record for others in the future when you can't make your own decisions. Planning usually means deciding who should make decisions on your behalf. It also means deciding what kinds of care you want in the future.

Dementia and Capacity

Alzheimer's and dementia: are they the same thing?

Dementia is a general term referring to a loss of cognitive function—remembering, thinking, and reasoning—severe enough to interfere with everyday life. Dementia is not a specific disease, but an overall term describing a wide range of symptoms. It is not normal aging. Dementia is caused by damage to the brain from disease or trauma. Alzheimer's disease is the most common cause of dementia, but there are also types of dementia that can be very different than Alzheimer's: including vascular dementia, dementia with Lewy bodies, and frontotemporal dementia.

What does "capacity" mean in dementia planning?

Some lawyers and health care professionals use the word "capacity" to talk about a person's ability or power to do, experience, or understand something. For example, a health care provider may evaluate a patient with dementia, to decide if the person still has the ability to give medical informed consent to a medical procedure, medication or take part in medical research. Capacity can change over time. Somebody may have the capacity to consent to a new medication, but may not have the capacity to manage their bank account, live independently without the need for a caregiver, or drive a car safely.

Lawyers use the term "legal capacity" in a more specific way—it refers to the ability to understand and sign a legal document to make it legally enforceable. For example, someone probably has legal capacity to sign a Living Will if they understand the consequences of their actions and make rational decisions.

If you have any doubts about your capacity to sign legal planning forms, you should talk to your doctor or healthcare provider. It may be helpful to have a capacity evaluation or assessment completed just before you sign dementia planning forms.

Legal Planning Forms: An Introduction

Here are 4 common dementia planning forms you should consider completing now:



Power of Attorney
for Finances



Power of Attorney
for Health Care



Health Care
Directive



Living with
Dementia Mental
Health Advance
Directive

You can hire a lawyer or attend a free legal clinic to have these documents prepared for you or you can do them yourself. Do-it-yourself forms are included in this Toolkit.

What is a Power of Attorney form?

A Power of Attorney form lets you choose a trusted friend or relative to help you with your finances or health care decisions. You get to choose who can speak for you if you no longer can do so yourself.

What is a Health Care Directive form?

A Health Care Directive form lets you choose what kind of medical treatments you do or do not want to have if you are terminally ill or permanently unconscious. It also allows you to express your general values, hopes, and concerns about all health care needs, and not just for end-of-life care.

What is a Mental Health Care Advance Directive form?

A Mental Health Care Advance Directive form records your choices about what kind of medical treatments you do or do not want if you have a mental illness or dementia. It is designed to address common issues people with mental illness or dementia may encounter.

Action Steps

The following steps are recommended:

- ❑ If you have doubts about your capacity to sign legal documents, **get a medical assessment** to find out whether your capacity to sign legal documents is an issue.
- ❑ **Complete both Health Care Directives:** one for general health care and a second one that is dementia-specific.
- ❑ **Complete a Durable Power of Attorney for Health Care.**
- ❑ **Complete a Durable Power of Attorney for Finances.**
- ❑ **Complete an estate plan.** Your estate plan may include legal documents such as a Will and maybe a trust. It may also include a plan for your remains (burial, cremation, or some other option).
- ❑ **Have conversations with your family members, friends and care partners** about what's most

Financial Decisions

2

Financial decisions for people with dementia

A dementia diagnosis can make financial planning more complex and important. As symptoms progress, almost everyone with dementia will eventually need help with day-to-day activities. You may need a caregiver who comes to your home, or you may eventually need long-term care in a facility or group home. These kinds of care may be expensive and someone may have to help you manage your money. You can decide who will help you make financial decisions, including decisions about your eligibility for health insurance and public benefit programs, like Medicare and Medicaid (Apple Health).

Power of Attorney for Finances

A Power of Attorney for Finances form lets you choose a trusted friend or family member to help you with your finances, including paying rent or mortgage payments, withdrawing and depositing money in and out of a bank accounts, making sure you are eligible for public benefits programs, and renting or selling property if necessary. Choosing someone to have your "power of attorney" doesn't mean you won't get to handle your own finances if you are still capable. It's like a backup plan in case you can't handle your money and debt in the future. You can change or cancel your power of attorney form at any time. We have included a do-it-yourself Power of Attorney for Finances in this Toolkit with more information and instructions.

Representative Payee

A representative payee is someone selected by a government agency (like the Social Security Administration or VA) to receive and manage benefits on behalf of someone else. Often, the payee is a family member or close friend, but sometimes can be a non-profit organization or professional fiduciary. A representative payee can receive Social Security and Veterans benefits, as well as some state benefits.

Dementia Legal Planning Checklist



You should complete or update the following legal planning forms as soon as possible after a diagnosis of dementia 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

Some other letters and forms you should consider completing now include:

- Form or letter to care partners about your health care values.
- 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 the contact information you have for each person is accurate and up to date.
- List of important papers, including legal planning forms, and where they are located.
- Physician's Orders for Life-Sustaining Treatment (POLST) Form
- Letter to your doctor about initiating voluntary stopping eating and drinking (VSED)
- Authorization and Disposition of Remains Forms
- Last Will and Testament

Meeting with a Lawyer Checklist



If you decide to meet with a lawyer for legal planning, you should consider bringing the following papers:

- Any previously signed Will, Trust, Power of Attorney or Health Care Directive
- A list of your family members, including parents, siblings, children, and grandchildren
- Divorce agreement, premarital agreement, community property agreement or other agreement with a spouse or ex-spouse
- A list of possible personal representatives and agents: You should think about who you want to make financial decisions, health care decisions for you if you need help. You should also think about who will manage your money and property after you [die](#).*
- Financial statements for checking, savings, money market, brokerage, pension, IRA, etc. (The first page of your most recent statement may do).
- Any deed(s) for your house and/or land
- Any life insurance policy information
- Any business agreements for any business you own
- Any trademark, [patent](#) and copyright registration certificates
- Any stock Certificates
- Completed Questionnaire given to you by the [lawyer](#), if they gave you one

* If you don't have any agents in mind, there are professional agents who can help you. The lawyer can tell you about professional agents.



Welcome to the Dementia Legal Planning Toolkit

Please see the back of this toolkit for more information about the toolkit and how to use it. This toolkit is designed to help you understand the legal issues that can affect people with dementia and their families. It is intended to be used as a starting point for discussion with your lawyer and other professionals. The toolkit is not intended to be used as a substitute for professional advice.

How to Use This Toolkit

This toolkit is designed to be used as a starting point for discussion with your lawyer and other professionals. It is intended to be used as a starting point for discussion with your lawyer and other professionals. The toolkit is not intended to be used as a substitute for professional advice.



Dementia Legal Planning Toolkit

Durable Power of Attorney for Finances for

[My Name]

- 1. Agent.** I choose _____ as my Agent with full authority to manage my finances.
- 2. Alternate.** If _____ is unable or unwilling to act, I choose _____ as my Agent with full authority to manage my finances.
- 3. My Rights.** I keep the right to make financial decisions for myself as long as I am capable.
- 4. Durable.** My Agent can use this power of attorney document to manage my finances even if I become sick or injured and cannot make decisions for myself. This power of attorney document shall not be affected by my disability.
- 5. Start Date.** This power of attorney document is effective: (check one)
 - Immediately.
 - Only if my medical provider signs a letter saying I cannot make decisions for myself.
- 6. End Date.** This power of attorney document will end if I revoke it or when I die. If my spouse or domestic partner is my Agent, this power of attorney document will end if either of us files for divorce in court.
- 7. Revocation.** I revoke any power of attorney for finances documents I have signed in the past. I understand that I may revoke this power of attorney document at any time by giving written notice of revocation to my Agent.
- 8. Powers.** My Agent shall have full power and authority to do anything as fully and effectively as I could do myself, including, but not limited to, the power to make deposits to, and payments from, any account in my name in any financial institution, to open and remove items from any safe deposit box in my name, to sell, exchange or transfer title to stocks, bonds or other securities, and to call, borrow or encumber any real or personal property. My

Durable Power of Attorney for Health Care for

[My Name]

1. **Agent.** I choose _____ as my Agent with full authority to manage my health care.
2. **Alternate.** If _____ is unable or unwilling to act, I choose _____ as my Agent with full authority to manage my health care.
3. **My Rights.** I keep the right to make health care decisions for myself as long as I am capable.
4. **Durable.** My Agent can still use this power of attorney document to manage my affairs even if I become sick or injured and cannot make decisions for myself. This power of attorney shall not be affected by my disability.
5. **Start Date.** This power of attorney document is effective on the day I sign it.
6. **End Date.** This power of attorney document will end if I revoke it or when I die. If my spouse or domestic partner is my Agent, this power of attorney document will end if either of us files for divorce in court.
7. **Revocation.** I revoke any other power of attorney for health care documents I have signed in the past. I understand that I may revoke this power of attorney document at any time by giving written notice of revocation to my Agent.
8. **Powers.** My Agent shall have full power and authority to do anything as fully and effectively as I could do myself, including the power to make health care decisions and give informed consent to my health care, refuse and withdraw consent to my health care, employ and discharge my health care providers, apply for and consent to my admission to a medical, nursing, residential or other similar facility that is not a mental health treatment facility, serve as my personal representative for all purposes under the Health Insurance Portability and Accountability Act (HIPAA) of 1996, as amended, and to visit me at any hospital or other medical facility where I reside or receive treatment
9. **Mental Health Treatment.** My Agent is not authorized to arrange for my commitment to or

Health Care Directive of

[My Name]

I am of sound mind and body and voluntarily execute this health care directive. If I cannot make decisions for myself about life sustaining medical treatment, my relatives, friends, agents and medical providers should fully honor every part of this directive. If any part of this directive is invalid, the remainder should be honored. I revoke any health care directives I have signed in the past.

1. **Withhold or Withdraw Treatment.** If my attending physician diagnoses me with a terminal condition, or if two physicians determine that I am in a permanent unconscious condition, and if my physician(s) determine that life-sustaining treatment would only artificially prolong the process of dying, the following treatment should be withheld or withdrawn from me:
(check all that apply)

- Artificial nutrition
- Artificial hydration
- Artificial respiration
- Cardiopulmonary Resuscitation (CPR), including artificial ventilation, heart regulating drugs, diuretics, stimulants, or any other treatment for heart failure
- Surgery to prolong my life or keep me alive
- Blood dialysis or filtration for lost kidney function
- Blood transfusion to replace lost or contaminated blood
- Medication used to prolong life, not for controlling pain
- Any other medical treatment used to prolong my life or keep me alive artificially

2. **Comfort Care and Pain Medication.** If I appear to be experiencing pain or discomfort, I want treatment and medications to make me comfortable, even if my medical providers believe it might unintentionally hasten my death.



Your life. Your death. Your choice.

LIVING WITH DEMENTIA MENTAL HEALTH ADVANCE DIRECTIVE OF:

(Print your name here.)

As a person with capacity, I willfully and voluntarily execute this mental health advance directive, so that my choices regarding my mental health care and Alzheimer's/dementia care will be carried out in circumstances when I am unable to express my instructions and preferences regarding my future care. If I live in a state that has not adopted laws that provide me with the legal right to make this advance directive, then I want this document to be used as a guide for those who make decisions on my behalf when I am no longer capable of making them for myself.

The fact that I may have left blanks in this directive does not affect its validity in any way. I intend that all completed sections be followed.

I understand that nothing in this directive, including any refusal of treatment that I consent to, authorizes any health care provider, professional person, health care facility, or agent appointed in this directive to use or threaten to use abuse, neglect, financial exploitation, or abandonment to carry out my directive.

I intend this Living With Dementia Mental Health Advance Directive to take precedence over any other mental health directives I have previously executed, to the extent that they are inconsistent with this Living With Dementia Mental Health Advance Directive.

I understand that there are some circumstances where my provider may not have to follow my directive, specifically if compliance would be in violation of the law or accepted standards of care.

1. **WHEN AND HOW LONG I WANT THIS DOCUMENT TO APPLY**

(Initial only one – a., b., or c. – and draw a line through the others)

- a. _____ I intend that this directive become effective **immediately** upon signing and that it remains valid and in effect until revoked according to the terms specified in section 16 or until my death.

- b. _____ I intend that this directive become effective if I become incapacitated to the extent that I am unable to make informed consent decisions or provide informed consent for my care, as determined by my treating physician, and that it remain valid and in effect until revoked according to the terms specified in section 16 or until my death.



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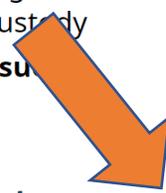
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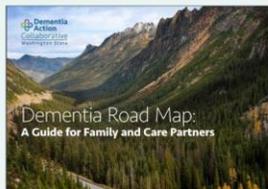
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Dementia is a general term for a decline in mental ability severe enough to interfere with a person's daily life. Alzheimer's is the most common type of dementia and causes problems with memory, thinking and behavior. Symptoms of Alzheimer's usually develop slowly, worsen over time, and hinder daily tasks. [Read more about Alzheimer's disease](#)



The Dementia Road Map: A Guide for Family and Caregivers offers guidance about what to do when a person experiences changes in memory and thinking, and offers information and tips about what to expect and steps to take if someone in your family has been diagnosed with Alzheimer's or other dementia. Read it online in [English](#) or in [Spanish](#). Or, order paper copies, click [here](#) for ordering instructions.



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