

## Legal Issues Management

*Part 3 of 4: What's Not Happening That  
Needs To Happen*

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Often when there are issues with family members who are living with dementia, there is the denial; and with denial is delay. The same is true with implementing the legal strategies that should be put in place. The message here on both is DON'T DELAY. Often, it is what is not happening that causes the most harm, legally, to the family member who either can't help with the legal process, can't remember, OR worst of all, will reach a stage of disease such that no lawyer will allow that person to sign a legal document. Don't procrastinate with either addressing medical needs or legal needs for one who is, or shortly will be, dealing with declining stages of dementia.

Set up a separate **file box** in the house somewhere and start filling it up with the needed legal documents.

What should be done? Here is a short laundry list of documents to put in your file box:

1. Does the family member have a WILL (last will and testament)? If not, get one before the person becomes legally unable to communicate with a lawyer and convey his or her desires. If the person with dementia has a will, albeit an old one, get it updated. You would be surprised how often the documents need to be updated, due to deaths in the family or others, changes in relationships, estrangements, etc. Contact a lawyer to do these things immediately.
2. Does the family member have a HEALTH CARE PROXY, sometimes referred to as a health care Power of Attorney? This is the document that gives someone the power to make healthcare decisions IF the family member is unable to do so. Contact a lawyer to do this immediately.
3. Does the family member have a GENERAL POWER OF ATTORNEY? This is a document which does not relate to healthcare decisions but to other decisions, i.e. who can access bank accounts if the family member needs money, who can make legal decisions about paying and collecting bills, filing or defending lawsuits, etc. Contact a lawyer to do this immediately. In the general power of attorney there SHOULD be a designation, made by the family member while the family member is competent to choose, as to who would be a guardian or conservator for the family member IF it should ever be needed in a Court of law. In other words, only the election and selection by the family member as to who should be the guardian or conservator made while the family member is competent in writing will be respected by the Court if, at a later time, it is ever necessary to declare and appoint a court ordered guardian and conservator or both.

4. Does the family member have a LIVING WILL? A living will is not the same as a will. A living will is designed, basically, for one simple purpose: for the family member to direct medical people to withhold “heroic” life saving measures for the family member if the family member is being kept alive on a breathing machine/mechanical ventilator or on some other such device, and there is no hope of recovery to useful life for the family member, so that the person who has the authority under the Living Will must decide, with the assistance of medical professionals, to refuse to sustain that person any longer on the machines.