

A Dementia Diagnosis Changes More Than Healthcare: Seven Legal Moves to Make While You Still Can

With dementia cases in the United States estimated to double by 2060—and roughly 42 percent of Americans over age 55 at risk of developing dementia according to recent research¹—a diagnosis is something that more and more families will face.

The statistics are sobering in the abstract. They feel different when they become personal.

When early warning signs turn into a clinical diagnosis, the situation shifts from uncertainty to clarity and from awareness to urgency.

A dementia diagnosis is not just medical; it also carries legal implications. But it is not a reason to panic. Depending on the diagnosis and its progression, there may still be time to act while legal capacity remains.

That window, however, is not open indefinitely.

A Diagnosis Is a Turning Point

A dementia diagnosis does not immediately extinguish legal rights. Many people in the early stages of dementia can still make decisions and sign legally binding documents. But a diagnosis does mark a meaningful shift—from general awareness to the need for timely action.

Moments of clarity or good days can create a sense that there is more time than there actually is. In reality, this period is often when planning is still possible.

The goal is not to rush but to recognize that the opportunity to act may become more limited over time.

The “Two-Clock” Reality: Medical Versus Legal

Families often assume that a dementia diagnosis and loss of legal capacity happen simultaneously. In practice, they run on separate timelines.

The medical clock starts running when a doctor identifies cognitive decline and focuses on diagnosis, symptoms, and treatment.

The legal clock does not start as long as the person can still understand and make decisions about what they are signing.

A person can be diagnosed with early-stage Alzheimer’s disease or another form of dementia and still have the legal capacity to sign certain documents. As long as they understand the nature and effect of the document—what it does and why they are signing it—the law generally recognizes their decisions as valid.

A diagnosis, then, should be viewed as a signal to begin, not a sign that it is too late.

¹ *United States Dementia Cases Estimated to Double by 2060*, NYU Langone Health News Hub (Jan. 13, 2025), <https://nyulangone.org/news/united-states-dementia-cases-estimated-double-2060>.

Who Determines When Capacity Is Lost?

While a physician manages the medical side of a diagnosis, legal capacity is typically evaluated in real time by an attorney. When updating documents, an attorney generally looks for the client's basic level of understanding of the following:

- what the person owns
- who their family members are
- what the document is intended to do

If that understanding is present, even on a single good day, documents can often still be executed. However, if significant decline occurs and an attorney determines the person does not have the required legal capacity to execute documents, court intervention will be necessary to have someone appointed to make decisions for that person.

The Planning Phase: Seven Legal Moves to Make Now

After diagnosis but before capacity is formally in question, there is often still an opportunity to act. Working with an attorney during this stage can help clarify what is still possible and what steps make sense.

Common priorities include the following:

- **Confirm or update estate planning documents.** Review wills, trusts, and related documents to ensure that they reflect current wishes and circumstances. A diagnosis is often the moment when families discover that documents have not been touched in years.
- **Review and activate powers of attorney (POAs).** Confirm that the right people are named and understand when and how they can step in. Also check if the POA is *springing* (requiring a doctor's note to work) or immediately effective. A diagnosis may be the right time to switch to an immediately effective POA to avoid delays.
- **Check beneficiary designations.** Life insurance policies, retirement accounts, and other assets may bypass a will. Confirm that the correct people are listed so assets go where intended without unnecessary complications.
- **Set up view-only access where appropriate.** Allowing a trusted contact to monitor accounts without transfer authority can serve as an early-warning system, making it easier to identify problems before they become serious.
- **Consider a revocable trust.** In some cases, a trust can provide a smoother mechanism for managing assets if capacity changes.
- **Plan for long-term care costs.** Begin evaluating how future care may be funded and what resources are available, whether that involves private funds, insurance, Medicaid, or other benefits (such as Veterans benefits).
- **Document care preferences now.** Wishes around medical treatment, living arrangements, and end-of-life care should be recorded while they can still be expressed directly—not reconstructed later by family members under pressure.

Act While You Still Have Options

Estate planning is ultimately about maintaining control—over important decisions, over who speaks for you, and over what happens when circumstances change.

A dementia diagnosis introduces uncertainty, but it can also reveal a window in which planning can still be done thoughtfully and on your loved one's terms.

Because it is difficult to predict how quickly capacity may change, acting sooner rather than later can help ensure that decisions remain in your loved one's hands for as long as possible and that the right structures are in place for whatever comes next.