

Navigating Estate Planning After a Dementia Diagnosis

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Receiving a diagnosis of dementia can be a daunting and emotional experience, both for the individual affected and their loved ones. Amidst the challenges of coping with the diagnosis and managing its progression, estate planning often becomes a critical concern. Planning for the future becomes more urgent, necessitating careful consideration and proactive steps to ensure that wishes are honored, and assets are managed appropriately. In this article, we delve into the complexities of estate planning after a dementia diagnosis, offering insights and guidance for navigating this intricate process.

Understanding the Impact of Dementia on Estate Planning

Dementia is a progressive condition that affects cognitive functions such as memory, reasoning, and decision-making. As the disease advances, individuals may have trouble managing their financial affairs, making healthcare decisions, and expressing their preferences regarding end-of-life care. In light of these challenges, estate planning takes on heightened significance, serving as a means to safeguard one's interests and provide clarity for family members and caregivers.

Key Considerations for Estate Planning

Advance Directives: Establishing advance directives, such as a durable power of attorney for legal and financial decisions

and a health care proxy for medical and personal decisions, is crucial for ensuring that trusted individuals are appointed to make decisions on behalf of the person with dementia when they are no longer able to do so themselves. These documents empower designated agents to manage financial matters, access medical records, and make health care choices in accordance with the individual's wishes.

Wills and Trusts: Reviewing and updating existing wills and trusts is essential to reflect the individual's current intentions and ensure that their assets are distributed according to their preferences. In cases where dementia may raise questions about testamentary capacity, it's advisable to work with an attorney experienced in elder law to mitigate the risk of potential disputes or challenges to the validity of the estate plan.

Conservatorship or Guardianship: In situations where an individual's capacity to make decisions is significantly impaired by dementia and advance directives are not in place, seeking guardianship or conservatorship may be necessary to protect their interests and manage their affairs. This legal process involves petitioning the court to appoint a guardian or conservator to act in the person's best interests and make decisions on their behalf.

Long-Term Care Planning: Considering the potential need for long-term care is essential in estate planning for individuals with dementia. Long-term care insurance, Medicaid/MassHealth planning, and setting up a trust are strategies that can help mitigate the financial burden associated with care services and ensure that adequate provisions are in place to support the individual's needs.

Beneficiary Designations: Reviewing beneficiary designations on retirement accounts, life insurance policies, and other assets is crucial to ensure that these assets are distributed according to the individual's wishes and align with the

overall estate plan. Updating beneficiary designations may also help avoid unintended consequences or conflicts with the estate planning documents.

Communication and Documentation: Open communication with family members, caregivers, and legal professionals is vital throughout the estate planning process. Documenting preferences, instructions, and important information in writing can help ensure clarity and facilitate decision-making in the event of cognitive decline. Additionally, maintaining a comprehensive inventory of assets, accounts, and important documents simplifies the administration of the estate.

Estate planning after a dementia diagnosis presents unique challenges that require careful consideration and proactive planning. By addressing these key considerations, individuals can establish a comprehensive estate plan that reflects their wishes and provides peace of mind for themselves and their loved ones. Seeking guidance from legal and financial professionals with expertise in elder law and estate planning can help navigate the complexities of this process and ensure that the individual's interests are protected throughout their journey with dementia.

The information contained in this article is not intended to make you an expert on estate planning nor is this article intended to replace the need for the advice of a professional. Rather, this article is simply intended to provide a basic understanding of why estate planning is important for everybody and a basic understanding of some of the more common estate planning tools. This article does not constitute legal advice.