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****The above listing of legal services is for information only and does not necessarily reflect an endorsement by the Alzheimer's Association, Miami Valley Chapter.**



alzheimer's association

legal planning a must

When Alzheimer's Disease strikes, the patient and the family must prepare for the inevitable emotional, physical, and financial changes that lie ahead. A diagnosis of Alzheimer's does not mean that the person is unable to make decisions. In fact, early in the course of the disease, the patient may be capable of participating in legal and financial planning to protect the future management of his or her life and assets.

It is vital that persons with Alzheimer's disease and their family obtain knowledgeable legal advice without delay. Laws vary from state to state, as do the needs of each person and his family. There is no one plan or approach that is right for everyone. With expert help and proper guidance, you should be able to make choices that best fit your needs.

Beginning the Plan

Planning a future for Alzheimer's can be an upsetting process for both patient and family. A fundamental principle is to allow the AD patient as much control of his life and affairs as possible. The patient should assist in selecting the person(s) who will assume management of legal and financial concerns when he is no longer able.

Even after there has been significant impairment, keeping the patient abreast of important decisions will help him to know that things are being done the way he would have chosen. Effective legal planning depends on open communication between family members. A family meeting with the legal advisor may make the process easier to manage.

A good starting point is collecting

legal and financial documents that are the property or concern of the AD patient and spouse, if applicable. These typically include the tax returns, health and life insurance policies, pensions information, deeds, mortgages, bank statements, investment documents, as well as previously executed wills and trusts.



Legal Steps to be Taken

There are several legal issues that should be considered as soon as the patient is diagnosed with Alzheimer's disease. It is important to locate an attorney who either specializes in elder law, or is familiar with the related issues and family situation. Once an attorney is retained, there are some immediate steps to be taken. First and foremost, an agreement must be reached as to who will legally act on behalf of the patient. There are several ways to accomplish this.

Durable Power of Attorney (For Health Care)

The Durable Power of Attorney document allows an individual to designate another person to act legally on his behalf. A DPA can be broad, and give power to manage and control most financial and legal transactions, or it can be limited to selected assets or activities. The Durable Power of Attorney for Health Care is a legal instrument where an individual

appoints a representative to make health care decisions when he is incapacitated and not able to.

Trusts and Living Trusts

A Trust is an arrangement where a trustee is appointed to manage part or all of his assets, which have been placed in the trust. Although the trustee holds title to the assets, he is obligated to manage them according to the terms of the trust.

A Living Trust operates while the grantor (patient) is still alive, allowing him to make changes as seen fit. A major benefit is the possible avoidance of probate, however there may not be any tax advantages to creating a Living Trust.

Wills & Living Wills

The terms by which a person's estate will be distributed death is specified in the Will. A Living Will gives the individual the opportunity to explain how the health care decisions are to be made in the event of mental capacity. It should state whether life-sustaining treatment is or is not to be used when the individual is completely without decision-making abilities or awareness. A Living Will should be written along with a DPA for Health Care to ensure that the patient's wishes are clear and executed properly.

Other Legal Matters

It is important to review the nature of ownership of the patient's property. In some cases it might be preferable to transfer title of properties, including those jointly owned, to a spouse, family member or trusted friends. Arrangements should also be made to have a legally designated representative of the patient file his tax returns.