

# STATE ALZHEIMER'S DISEASE PLANS: LEGAL ISSUES

*Recommendations regarding legal protections for, and legal issues faced by, individuals with Alzheimer's*

Alabama	<ul style="list-style-type: none"> <li>• Strengthen the judicial system's ability to monitor guardians and conservators once appointed.</li> <li>• Develop a means of recruiting qualified persons to serve as guardians and conservators.</li> <li>• Develop dementia-specific training specifically for guardians and conservators as well as training related to the powers, duties, and responsibilities of guardians and conservators.</li> </ul>
Alaska	<ul style="list-style-type: none"> <li>• Continuously educate individuals and families about planning for Power of Attorney, wills and guardianships, planning for their futures, paying for long-term care, and being prepared for the steps in the disease process.</li> </ul>
Arizona	<ul style="list-style-type: none"> <li>• Promote training on legal issues facing people with Alzheimer's disease and related disorders and their families, such as guardianship, conservatorship, and powers of attorney.</li> </ul>
Arkansas	
California	<ul style="list-style-type: none"> <li>• Enhance legal protections for people living with the disease and caregivers to protect against abuse and neglect.</li> <li>• Provide state-approved forms such as Durable Power of Attorney for Healthcare, Physician Orders for Life Sustaining Treatment (POLST), and other documents at no cost to the consumer via public libraries, resource centers, and easily accessible websites.</li> </ul>
Colorado	<ul style="list-style-type: none"> <li>• Create a statewide list of licensed attorneys who agree to provide pro bono or reduced-fee elder law services to individuals with Alzheimer's disease and their families.</li> <li>• Develop and implement strategies such as increasing the number of dedicated staff to probate courts or creating a volunteer legal services program to monitor and support court-appointed guardianship and conservatorship concerns. Apply for federal grants available through the Affordable Care Act to enhance these adult protective services in Colorado.</li> </ul>
Connecticut	<ul style="list-style-type: none"> <li>• Collaborate with elder abuse prevention entities at the state and local level to ensure awareness of risks to individuals with dementia and how to protect them from abuse.</li> <li>• Enhance efforts to prevent exploitation of individuals with dementia by supporting initiatives such as the State Department on Aging's "Elder Justice Coalition."</li> <li>• Ensure that the wishes of the individual are known and respected, and avoid costly court proceedings by encouraging financial planning (including assessment of assets) and advanced directives with the help of an attorney with specific knowledge in elder, probate, or estate law.</li> <li>• Encourage financial institutions to provide information about financial planning tools for individuals with dementia.</li> <li>• In light of emerging research and technology that may make diagnosis of Alzheimer's possible at a pre-clinical or pre-symptomatic stage, review laws and regulations to ensure the rights of persons with Alzheimer's or other dementias and diseases are protected.</li> </ul>
Delaware	<ul style="list-style-type: none"> <li>• Promote efforts to prevent, detect, and address abuse, neglect, mistreatment, and exploitation of persons with Alzheimer's disease.</li> <li>• Encourage caregivers to learn about the financial and legal impact of Alzheimer's disease and the importance of obtaining financial and legal advice as a planning tool.</li> <li>• Encourage caregivers to learn about and actively engage in discussion surrounding end-of-life issues.</li> <li>• Partner with state regulators, court administrators, and the Delaware Bar Association for training on legal issues facing persons with Alzheimer's disease, including training on the roles of guardians and surrogate decision makers.</li> </ul>
District of Columbia	<ul style="list-style-type: none"> <li>• Provide education and assistance to persons living with Alzheimer's disease and caregivers regarding legal, medial, and financial decisions such as establishing power of attorney or legal guardianship.</li> </ul>
Florida	<ul style="list-style-type: none"> <li>• Recognize the ability for specially trained public safety personnel to initiate guardianship procedures and conduct an evaluation of an individual.</li> </ul>

Georgia	<ul style="list-style-type: none"> <li>• Provide state-approved forms such as the Georgia Advance Directive for Health Care, Physician Orders for Life Sustaining Treatment (POLST), and other documents at no cost to the consumer via public libraries, resource centers, and easily accessible websites.</li> <li>• Evaluate state laws, specifically with respect to powers of attorney and guardianship, and make recommendations that will decrease fraud, abuse, neglect, and self-neglect of persons with Alzheimer's disease and other dementias.</li> <li>• Collaborate with the 12 Area Agencies on Aging, the Governor's Office of Consumer Protection, the Georgia Bureau of Investigation, the Medicaid Fraud Control Unit, the United States Department of Health and Human Services, the United States Office of the Inspector General, and the Division of Aging Services, Adult Protective Services and Senior Medicare Patrol project to educate consumers and financial professionals regarding risks, prevention, and mitigation of abuse and fraud specific to consumers with dementia.</li> <li>• Partner with Adult Protective Services (APS), law enforcement, the banking and financial industry, and the court system to recognize ongoing or potential financial abuse of people with dementia, protect those at risk, and curb ongoing exploitation.</li> <li>• Promote advance care planning and advance financial planning to care partners, families, and individuals with dementia in the early stages before function declines. This population includes those with younger-onset Alzheimer's and developmental disabilities.</li> </ul>
Hawaii	<ul style="list-style-type: none"> <li>• Maintain the dignity, safety, and rights of people with Alzheimer's disease and other dementias as well as their caregivers, including by: (1) developing partnerships with legal service providers and others; (2) educating legal professionals about working with people with Alzheimer's and other dementias, including public and private guardians; (3) educating other groups and professionals on legal issues important to dementias such as advance care planning, Physician Orders for Life-Sustaining Treatment (POLST), and Durable Power of Attorney for Healthcare; (4) expanding training in legal, safety, and elder abuse issues to address the needs of individuals living in long-term care settings; (5) incorporating elder abuse awareness into Hawaii's aging network activities; (6) exploring collaborations to provide quick, free, or affordable legal services to all affected by Alzheimer's and other dementias; (7) encouraging the use of mediation and family counseling services to resolve conflicts; (8) addressing barriers to a speedy and cost-effective process for guardianship and/or conservatorship proceedings in Hawaii's court system; and (9) making other statutory changes in Hawaii law that would benefit people with dementia.</li> </ul>
Idaho	
Illinois	
Indiana	<ul style="list-style-type: none"> <li>• Increase use of advance directives and financial planning.</li> <li>• Support guardianship and conservator policies.</li> </ul>
Iowa	
Kentucky	
Louisiana	<ul style="list-style-type: none"> <li>• Support implementation of Louisiana Physicians Order for Scope of Treatment (LaPOST).</li> </ul>
Maine	<ul style="list-style-type: none"> <li>• Engage the legal community and probate court officials to better inform them of the challenges of dementia and the legal services and/or other counseling that may be needed by individuals living with the disease and their families, including by engaging attorneys in helping to educate the public on legal decisions to consider around durable power of attorney, advance directives, as well as what instruments may need to be executed as part of advance planning to advocate on behalf of their loved ones to secure services and benefits needed.</li> <li>• Ensure state-approved forms such as Durable Power of Attorney for Healthcare, Physician Orders for Life Sustaining Treatment (POLST), and other documents with helpful instructions and frequently asked questions are available at no cost to consumers at public libraries and resource centers. Include related resources in the dementia-focused online resource directory.</li> <li>• Ensure that entities that are specifically involved in the prevention of elder abuse are mindful of legal protections with regard to the vulnerable population of those with dementia. Include related resources in the dementia-focused online resource directory.</li> </ul>

Maryland	<ul style="list-style-type: none"> <li>• Review current Maryland statutes and regulations that affect people living with dementia to promote (a) their right to have as productive a life as practical; (b) protection from personal and financial abuse and neglect; and (c) recognition of the ethical challenges and needs of people living with dementia and their circle of care.</li> </ul>
Massachusetts	<ul style="list-style-type: none"> <li>• Collaborate with the Executive Office of Elder Affairs Banking Reporting Project and Money Management Program, the United States Department of Health and Human Services, the United States Office of the Inspector General, and the Massachusetts Senior Medicare Patrol project to educate consumers and financial professionals regarding risks, prevention, and mitigation of abuse and fraud specific to consumers with dementia.</li> </ul>
Michigan	
Minnesota	
Mississippi	
Missouri	
Montana	<ul style="list-style-type: none"> <li>• Encourage Montanans to consider the inclusion of a dementia provision in their advanced care directives and health care powers of attorney.</li> <li>• Create and provide a Legal and Financial Awareness packet for health care providers to distribute to their patients with Alzheimer's or other dementias, as well as their family caregivers.</li> <li>• Encourage state agencies and private sector stakeholders to ensure that Montana-specific legal and financial resources are available for family members and their caregivers on their websites, as well as provide printed copies for Montanans who do not have computers or have difficulty accessing internet services.</li> <li>• Develop a Legal and Financial Awareness "train the trainer" outreach program for faith-based organizations and the Senior Companion participants to enable them to assist families who have a member with cognitive impairment.</li> <li>• Develop a Power of Attorney Registry or Clearinghouse mechanism similar to the Montana End-of-Life Registry that could be accessed by financial institutions or agencies upon permission of the Power of Attorney agent in order to simplify proof of who has legal authority to act on behalf of an individual with Alzheimer's and other dementias.</li> <li>• Educate the public about the importance of discussing advance directives and end-of-life wishes early in the disease process to allow the person with Alzheimer's and other dementias to be involved in the decision-making process.</li> <li>• Ensure that persons with Alzheimer's and other dementias are not excluded from creating a Do Not Resuscitate directive or right to die, allowing end-of-life wishes to be respected and legally recognized.</li> <li>• Provide community workshops and webinars about planning for diminished capacity that focus on legal and financial aspects for those with cognitive impairments</li> <li>• Information about end-of-life decision making, including palliative care, hospice, and right-to-die, should be offered to adults with Alzheimer's and other dementias and their caregivers.</li> <li>• Train 'gate keepers' (e.g., bank tellers, health care providers, store clerks, Post Office employees) to recognize the warning signs of elder abuse (physical, psychosocial, sexual, financial, and neglect) and provide reporting methods.</li> </ul>
Nebraska	<ul style="list-style-type: none"> <li>• Provide downloadable links to Nebraska Power of Attorney, Living Will, Medical Directives, and Health Care Power of Attorney documents through web-based aging resources including the Aging and Disability Resource Centers (ADRC).</li> <li>• Create a comprehensive care planning checklist for people living with Alzheimer's disease and other dementias and their caregivers with regard to care wishes, living arrangements, treatment options, driving decisions, advance directors, and end-of-life care.</li> </ul>
Nevada	
New Hampshire	

New Jersey	<ul style="list-style-type: none"> <li>• Encourage health care provider and community agency education to increase the widespread use of advanced health directives.</li> <li>• Increase public awareness of the state-approved forms for advance planning, including the proxy directive, the instruction directive and the Practitioners Orders for Life-Sustaining Treatment (POLST) form, that are available at no cost via the NJ Department of Health's website.</li> <li>• Communicate with financial institutions on the risks of financial exploitation by working with the Department of Banking and Insurance to develop and implement a consumer awareness plan aimed at financial institutions with branches in New Jersey.</li> <li>• Work with the Alzheimer's Association and Alzheimer's NJ to integrate the prevention of the exploitation of persons with Alzheimer's and other dementias into the <i>Fighting Fraud</i> initiative sponsored by the New Jersey Division of Consumer Affairs.</li> <li>• Collaborate with elder abuse prevention organizations, including Adult Protective Services and the Office of the Ombudsman for the Institutionalized Elderly, to ensure awareness of risks to individuals with Alzheimer's disease and how to safeguard them from abuse.</li> </ul>
New Mexico	<ul style="list-style-type: none"> <li>• Enhance early access to and awareness of financial planning and medical advance directives.</li> </ul>
New York	<ul style="list-style-type: none"> <li>• Educate caregivers, persons with dementia, and providers about state and federal privacy and confidentiality laws and the advisability of consulting an attorney to plan for the authorization of confidential communications with providers.</li> <li>• Educate caregivers and providers about resources to assist with property and financial issues.</li> <li>• Expand access to legal and financial information through links on state agency websites.</li> </ul>
North Carolina	<ul style="list-style-type: none"> <li>• Increase awareness among family caregivers of legal protections and vulnerabilities of people with Alzheimer's disease and other dementias</li> <li>• Incorporate legal protection issues specific to people with Alzheimer's disease and other dementias into health, legal, and financial professional training. Offer continuing education on the types and unique requirements of various legal protections for people with Alzheimer's and other dementias.</li> <li>• Convene a workgroup to examine state statutes to determine adequate legal safeguards and protections for people with Alzheimer's disease and other dementias, including Adult Protective Services and guardianship services; the federal Elder Justice Act; resources and training needed to protect vulnerable adults; reporting of abuse, neglect, or exploitation and penalties for not reporting; jurisdictional responsibility; prosecution of exploitation and alternatives to strengthen the process.</li> <li>• Integrate elder fraud and abuse data to improve services for people with Alzheimer's disease and other dementias.</li> </ul>
North Dakota	
Oklahoma	
Oregon	
Pennsylvania	<ul style="list-style-type: none"> <li>• Identify and potentially form partnerships with for-profit and non-profit organizations that are working in the areas of neglect, abuse, and financial exploitation.</li> <li>• Communicate with financial institutions and other organizations regarding best practices to identify signs of financial exploitation.</li> <li>• Promote public awareness to identify neglect, abuse, and financial exploitation.</li> </ul>
Puerto Rico	

Rhode Island	<ul style="list-style-type: none"> <li>• Allocate additional resources to support investigatory and prosecutorial personnel in the Office of the Attorney General in light of the complexity of financial elder abuse cases.</li> <li>• Identify a strategy for increasing resources available to the Protective Services Unit of the division of Elderly Affairs.</li> <li>• Refer the concerns regarding guardianship law to the Legislative Commission to Study the Feasibility of Modernizing Probate Law and Procedure for further study and to develop recommendations for submission to state policymakers with respect to: (1) increasing the jurisdiction, resources, and capacity of the Volunteer Guardianship program to provide services to more people in need; (2) modifying the existing Guardianship for a Specific Purpose to better respond to long-term stay hospital residents in need of a volunteer guardian for discharge purposes; (3) pursuing federal funding to support a volunteer guardianship oversight program; (4) exploring enhancements to existing probate court authority and resources.</li> <li>• Include health care power of attorney designation and ongoing review provisions in statutory nursing home and assisted living care plan requirements.</li> <li>• Engage existing community networks and health care partners to increase awareness of advance planning and to improve awareness of and comfort with Durable Healthcare Powers of Attorney, including by (1) promoting dissemination of state-approved power of attorney forms at senior centers and adult day programs; (2) soliciting participation of RWU Elder Law Society to develop and deliver educational presentations and materials to community partners, including senior centers; (3) encouraging primary care offices to upload health care power of attorney forms to their online portals; (4) developing Continuing Medical Education course material for medical professionals on the importance of advance planning and the availability of educational materials for patient referrals; and (5) conducting specific outreach to faith-based organizations to augment or initiate educational programs that aid families with advance planning for end-of-life care.</li> <li>• Initiate potential partnership with the Department of Motor Vehicles to make materials and forms available online and in hard copy at DMV locations across the state, and improve awareness of the Rhode Island Bar Association’s handbook on advance planning and the “Ask a Lawyer” program as additional conduits for encouraging advance planning.</li> </ul>
South Carolina	
Tennessee	<ul style="list-style-type: none"> <li>• Partner with attorneys in private practice to increase their awareness of issues related to Alzheimer’s disease and other dementias.</li> <li>• Partner with the Legal Assistance Program in Area Agency on Aging districts (funded by the Tennessee Commission on Aging and Disability) to provide training to attorneys on elder care law.</li> <li>• Encourage attorneys to obtain continuing education on elder care law and encourage law schools to include a module of elder care law in the curriculum.</li> </ul>
Texas	
Utah	<ul style="list-style-type: none"> <li>• Provide state-approved forms such as Durable Power of Attorney for Healthcare, Physician Orders for Life Sustaining Treatment (POLST), and other documents with helpful instructions and Frequently Asked Questions at no cost to the consumer via public libraries, resource centers, and easily accessible websites.</li> <li>• Partner with Adult Protection Services, law enforcement, the banking industry, and the court system to recognize ongoing or potential financial abuse of elders with dementia, protect those at risk, and curb ongoing exploitation.</li> <li>• Enhance self-determination by encouraging persons with dementia and their families to assess management of assets early with the help of elder law specialists or Utah Legal Services, effective draw-down of assets, and avoidance of costly court proceedings.</li> <li>• Explore from multidisciplinary perspectives a justice center system for elder and vulnerable adults to ensure timely and appropriate prosecution of those who exploit persons with cognitive impairment.</li> <li>• Support guardianship and conservator policies that align with national standards, that respect the rights and needs of persons with dementia, and that minimize the burden on families and the legal system.</li> </ul>

Utah (cont.)	<ul style="list-style-type: none"> <li>• Employ health care provider and community agency education to encourage widespread and early use of advanced health care directives.</li> <li>• Encourage the financial community to provide information about financial planning for chronic illness, the use of long-term care insurance, and other financial instruments.</li> <li>• Support efforts of adult protective officials on detecting, addressing, and preventing fraud, abuse, neglect, and self-neglect of persons with dementia in the community or in institutions of care.</li> <li>• Partner with state regulators, court administrators, and the Utah Bar Association for training on legal issues facing persons with Alzheimer's and other dementias and their families such as guardianship, conservatorship, powers of attorney, and the medical standards related to each.</li> </ul>
Vermont	
Virginia	
Washington	<ul style="list-style-type: none"> <li>• Educate the public about the need for advance care and end-of-life planning, before cognitive function declines, consistent with the Bree Collaborative End of Life Care Recommendations.</li> <li>• Educate the public and caregivers about the need for legal and financial planning – and the importance of obtaining legal and financial advice as a planning tool.</li> <li>• Promote systematic documentation of people's choices for end-of-life care prior to or upon entry into a LTSS setting.</li> <li>• Increase awareness of existing consumer protection education and outreach, such as AARP and Attorney General Office fraud alert networks.</li> <li>• Make more readily available information and appropriate forms for legal planning – Durable Power of Attorney for Health Care, Durable Power of Attorney for Finances, Advance Directives, and Physician Orders for Life Sustaining Treatment (POLST) – at no cost to consumers through public libraries, resource centers, online, and other appropriate locations.</li> <li>• Convene a workgroup to evaluate current statutes and regulations that affect people with dementia, specifically those regarding powers of attorney, guardianship, payeeships, trusts, and wills.</li> <li>• Expand the authority of the Office of Public Guardianship to assist individuals with planning end of life care and decision-making, and provide funding to meet the need.</li> <li>• Promote existing and emerging opportunities to educate financial institution staff about dementia and possible financial exploitation and abuse, their authority to report suspected abuse, and the protections for those who report. For example, "Spotting Financial Exploitation" from the Attorney General's Office.</li> </ul>
West Virginia	
Wisconsin	

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