

Don't Let Dementia Steal Everything

by Kerry Peck, Managing Partner of Peck Ritchey, LLC

The Diagnosis

Martha was 72 years old when she was diagnosed with Alzheimer's disease. A successful bakery owner, Martha had a nice life with her husband and children, and was an integral part of her neighborhood. She was an active volunteer for the community shelter and enjoyed sharing her baking expertise with the neighborhood children, who often came over for a lesson and some homemade treats. Despite her mother receiving the same diagnosis 30 years earlier, Martha's world was shattered when the neurologist delivered the test results. Martha was thrown into a whirlwind of doctors appointments and new medications. Martha and her family were uncertain whether to keep her diagnosis a secret or tell her friends. It seemed to Martha that before she had even begun to battle the disease, her life was already becoming less of her own. Martha picked up the phone and called an old friend who was a practicing elder law attorney. Within the week, she and her family were sitting in the attorney's office to discuss Martha's options.

Advanced Legal Planning

A heartbreaking diagnosis of Alzheimer's disease requires prompt action. Patients are unprepared to deal with the diagnosis, let alone the financial and legal consequences the entire family needs to face. Unfortunately, the only certainty about Alzheimer's disease is that it is a progressive disease that affects each patient differently, and there is no time to

waste to plan for the family's future. Advanced legal planning will protect the Alzheimer's patient's right to participate in the decision-making process.

When executing legal documents, the issue is "legal capacity." Legal capacity is the level of mental capacity needed to sign official documents. The patient needs to know what the document means, what he or she is signing, and the implications that will result from the document. It is essential that the patient puts his or her legal affairs in order before becoming cognitively impaired. If diagnosed with stage one or early-onset Alzheimer's disease, the patient will generally retain the legal capacity to execute powers of attorney, a will and/or a revocable living trust.

All of us desire independence and the preservation of dignity. An Alzheimer's patient must act quickly to put in writing a health and financial plan while competent to do so. Delay in taking the steps to protect the future could prevent the patient's meaningful input as the cognitive impairments get worse.

The American Bar Association recently published *Don't Let Dementia Steal Everything*, a consumer-focused book which I co-authored with Rick Law of Law ElderLaw. This book is a follow-up to our previous book *Alzheimer's and the Law*, and is designed to be used by the reader as a reference guide to finding quality legal advice to overcome some very common legal obstacles raised by a diagnosis of Alzheimer's disease.



Excerpts from a Book Review

by David Godfrey of the American Bar Association

This book explores how the progressive nature of dementia brings with it increased risks and care needs. It describes how to find an attorney who is dementia competent. It covers the basics of planning for incapacity and core planning documents such as advance healthcare directives and powers of attorney. Chapters are devoted to understanding both Medicare and Medicaid, as well as veterans' benefits. The book also examines the issues of guardianship, elder abuse and financial exploitation, and issues of in-home care and paid caregivers.

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