

GUIDE · 8 MIN READ

Power of Attorney and Healthcare Proxy: the four documents every US dementia family needs

Without these in place before capacity is lost, families spend months in court instead of weeks getting care. Set them up now, before you need them.

The four documents

Durable Power of Attorney (Financial)

Lets you pay bills, manage bank accounts, file taxes, and handle property on your loved one's behalf. 'Durable' means it remains in effect after they lose capacity. Without one, you may need to go to court for guardianship — slow, expensive, and adversarial.

Healthcare Proxy (a.k.a. Medical POA, Healthcare Power of Attorney, Healthcare Surrogate)

Lets you make medical decisions if they can't. The exact name varies by state — Massachusetts calls it a Healthcare Proxy; California calls it an Advance Health Care Directive; Texas calls it a Medical Power of Attorney. The function is the same.

Living Will (Advance Directive)

Written instructions about end-of-life care — CPR, intubation, feeding tubes, hospice. Goes alongside the healthcare proxy. Many states combine the two into a single Advance Directive form.

HIPAA Release / Authorization

Without it, doctors and hospitals may refuse to share information with you, even with a healthcare proxy. Get it signed at the same time as the proxy. Most hospitals have their own form too — sign one at every facility your loved one uses.

State-by-state realities

- Every state has its own forms. Forms from one state are often, but not always, honoured in another. If your loved one moves, re-sign in the new state.
- Some states (e.g. California, New York) require witnesses; others (e.g. Pennsylvania) require notarisation; many require both. Don't sign at home without checking.
- Spouses are NOT automatically the medical decision-maker in most states. Without paperwork, the legal hierarchy may pass to an adult child or sibling — possibly not the person you'd choose.
- If your loved one has already lost decision-making capacity, you cannot get POA — you'll need to apply for guardianship (called 'conservatorship' in some states). Do not delay if a diagnosis has just come in.

Seven steps, in order

1. Have the capacity conversation today, while it's still possible. People with early dementia can absolutely sign these documents — it's a sliding window that closes.
2. Use your state's free statutory forms (search 'durable power of attorney form [your state]') OR a service like FreeWill, Trust & Will, or an elder-law attorney.
3. Pick the right person — someone organised, geographically reachable, and able to disagree with doctors when needed. It's not always the eldest child.
4. Name an alternate (back-up) in every document. People die, get sick, or fall out.
5. Sign with the witnesses and notary your state requires. Skipping this is the most common reason families end up in probate court.
6. Give copies to: the PCP, every hospital they use, the named agent, the alternate, and the elder-law attorney. Keep an original in a fireproof box at home.

7. Re-read every 2–3 years. People and circumstances change.

Keep every signed document in one private vault

The Care Companion stores the POA, healthcare proxy, living will and HIPAA release encrypted — printable in two taps when a hospital asks. 7-day free trial.

Start free trial

General guidance, not legal advice. State law varies — for high-value estates, blended families, or any complexity, see an elder-law attorney (NAELA.org).

Free guide from The Care Companion — practical tools for families caring for someone with dementia. More guides at thecarecompanion.com/guides