



**Plan Ahead &
Protect Yourself**
Legal Series for Seniors

Workbook



Justice for Seniors



Keeping Seniors Safe



Financial POAs & More



Health Advance Directives



Wills & Estates



Welcome

to the *Plan Ahead & Protect Yourself* Legal Series for Seniors Workbook

How to Use the Workbook

This Workbook contains information about the topics covered in the *Plan Ahead & Protect Yourself Legal Series for Seniors* classes. The classes give you information about your legal rights, legal resources, and ways to handle your legal issues. **There are five classes in the series. They are:**



Justice for Seniors



Keeping Seniors Safe



Financial POAs & More



Health Advance Directives



Wills & Estates

Choose the class or classes that interest you. As you read through the Workbook, there will be activities you may choose to complete to help you better understand and use the information.

Look for the following as you make your way through the Workbook:



Take a Tip!

Tips are key points summarized in short suggestions.



Think About It!

Think about different situations and how the information might apply in each situation.



Test Yourself!

Test yourself to see how well you understand the information presented.



To Do!

Note how the information applies to you and the follow-up steps you may wish to take.



Classes & Class Materials:

Classes are presented live to groups. For a list of scheduled live classes, visit www.legalaidline.org. To make classes available in your community, call LAWO at 1-877-894-4559.

Visit www.legalaidline.org to view class information in alternative formats. You may choose to listen to an audio recording, read an information sheet or watch a video.

For help with legal issues not covered by the *Plan Ahead & Protect Yourself Legal Series for Seniors*, call Legal Aid Line at: 1-888-534-1432 or apply online at www.legalaidline.org or walk in to any LAWO office between 9am – 4:30pm.

Information in these classes is GENERAL INFORMATION ONLY – It is not legal advice. If you need legal help, talk with an attorney.

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You can do it! This class will help you learn the skills you need to handle legal issues before they become legal problems.

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Knowledge is power! This class will help you learn the skills you need to avoid schemes and scams and protect your personal information, safety and property.

10 Financial POAs & More

You have options! This class will help you learn how someone you trust can help you manage your money by a power of attorney or other methods. It will also help you learn what the risks might be and how to manage those risks.

22 Health Advance Directives

You have options! This class will help you learn how you can let someone you trust make your health care decisions when you can not. The class includes Health Care Power of Attorney and Living Will.

28 Wills and Estates

You have options! This class will help you learn how to transfer your property when you die. The class includes Last Will & Testament and other methods.



Legal Series for Seniors

Justice for Seniors

The **Plan Ahead & Protect Yourself Legal Series for Seniors** is a series of 5 classes designed to give you important information and help you:

- Learn about your legal rights
- Find legal information you need
- Access legal help
- Advocate for yourself
- Avoid being exploited
- Maintain your independence
- Make decisions about your future
- Get help if, and when, you need it

Information in this class is GENERAL INFORMATION ONLY – It is not legal advice. If you want help with your situation, talk with an attorney.

How to get legal information or legal help.

Legal Aid of Western Ohio (LAWO) and Advocates for Basic Legal Equality (ABLE)

ABLE & LAWO are non-profit law firms that help low-income people and persons age 60+ in western Ohio. If you qualify, services are free.

- We don't have enough attorneys to help everyone who needs help. Sometimes, we provide advice by phone, help with forms or legal papers, representation or referrals to others who might be able to help.
- We help with issues that involve your personal safety, your housing, public benefits, and some consumer transactions.
- We are unable to help with traffic cases and criminal cases.
- If you want to apply for help, call Legal Aid Line at: (888)534-1432 or apply online at: www.legalaidline.org

Pro Bono Attorney

Pro Bono Attorneys are attorneys in private practice who help by handling some cases for free.

Pro Seniors

Pro Seniors is a statewide legal services program for those who are age 60+. You can reach the Pro Seniors Legal Hotline toll-free at (800) 488-6070 or www.proseniors.org.

Disability Rights Ohio provides assistance to persons with disabilities. You can reach Disability rights Ohio toll free at: 1-800-282-9181 or www.disabilityrightsohio.org.

Private Attorneys

Represent Yourself

Representing yourself in court is called "pro se" (pronounced "pro say").

How to handle your legal issues before they become legal problems.

Tools You Can Use. Try the **7 P's!**

1

Plan Ahead:

Make sure your wishes are known in advance. Learn about Health Care Power POA; Living Will; Financial POA; and Last Will & Testament and decide if they are right for you.

EXAMPLE 1

Sally wants her collection of Elvis Presley records to go to her friend Gary when she passes away. She has a Last Will & Testament written expressing her wish that Gary receive the record collection. This avoids any confusion for her loved ones when she dies.

EXAMPLE 2

Sally is in a bad car accident. Sally's doctor examines Sally and says she is brain dead and there is no hope she will recover. Another doctor examines Sally and agrees. Sally is only alive because a machine is breathing for her. Sally completed a Living Will before her accident which tells her doctor she does not want to be kept alive by machines if she is in a permanent unconscious state. After notifying the people listed on her Living Will, her doctor will turn off the machine that is keeping her alive and allow her to die naturally – according to her wishes.

2

Protect:

Watch out for schemes, scams and people who may try to take advantage of you. Protect your property, money, personal information and safety.

EXAMPLE

Sally receives a phone call from someone who says they are from the Internal Revenue Service (IRS). The person claims Sally is entitled to a tax refund but they need her Social Security number to process her refund check. Sally does not give the person her Social Security number. Instead, she calls a phone number she finds on the IRS official website. The person at this number tells Sally that the IRS will never call her and ask her for her Social Security number and the person who called her must be an identity thief. Sally does not call the first person back and she now hangs up on all callers who ask for her Social Security number or other personal information.



Justice for Seniors

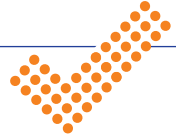
3

Power:

Know your rights, options and resources. Contact your local Legal Aid office; Pro Seniors, Inc.; Disability Rights Ohio or a private attorney for help.

EXAMPLE

Sally gets a call from a collection agency. The caller tells Sally that if she doesn't start paying on an old credit card bill they will start taking money out of her checking account. Sally's only source of income is her Social Security check. Sally calls Legal Aid and learns that the law protects her Social Security money from creditors and collection agencies. Sally does not start paying money to the collection agency.



Take a Tip

You can sometimes find private attorneys through your local bar association.

4

Prevent:

It is better to avoid the problem in the first place. Use the seven "Ps" to prevent problems. If you do have a legal problem, deal with it early. Get help so a small problem doesn't become a big crisis.

EXAMPLE

Sally puts all direct mail credit card offers through a paper shredding machine before she throws them in the garbage. She does the same thing with any mail she receives that has personal information about her. Doing this prevents identity thieves from finding any usable information in Sally's trash.

5

People:

Build a small support group of people you trust who can help you when you need it. Only let people you trust have access to your property, your money or your personal information.

EXAMPLE 1

When Sally is planning to be away from home for a few days, she always lets her neighbors know the dates she will be away. She only tells the neighbors she has known for a long time and trusts completely. If someone tries to enter her home while she is away, her neighbors will know to call the police.

EXAMPLE 2

Sally receives an email encouraging her to purchase a "penny stock". She prints the e-mail and takes it to her financial advisor at her local bank. The advisor tells her that these kinds of offers are usually scams.

6

Paper:

Don't sign anything you don't understand. Get receipts for things you pay for and copies of anything you sign. Keep important papers in a safe place where you can find them when you need them.

EXAMPLE 1

Sally owns a filing cabinet where she keeps all her important papers. She has separate file folders for all forms and papers she receives from Social Security, her insurance company and Medicare. She also has a folder for receipts for recent purchases as well as purchase agreements and contracts.

EXAMPLE 2

Sally often receives letters and offers in the mail that she doesn't understand. She always takes them to her daughter, Anne, to explain what they say before she responds to them or throws them out.

7

Persist:

Stick up for yourself! Ask questions and insist on answers.

EXAMPLE

Sally has no hot water in her apartment. She has called her landlord about the problem several times but he has done nothing. Sally calls Legal Aid and tells them about her problem. Legal Aid tells Sally about a legal process she can use to help get her water heater fixed. After speaking with Legal Aid, Sally follows the instructions and her landlord fixes the problem.



Test Yourself!

Matching. Match the class on the left with the description on the right.

- | | |
|-----------------------------------|--|
| 1. ____ Justice for Seniors | A. Planning for the future for your health care |
| 2. ____ Keeping Seniors Safe | B. How to avoid schemes and scams |
| 3. ____ Financial POAs & More | C. How to get help managing your money without being harmed |
| 4. ____ Health Advance Directives | D. How to transfer your property when you die |
| 5. ____ Wills & Estates | E. Handle legal issues before they become legal problems |

answer key: 1. **E** 2. **B** 3. **C** 4. **A** 5. **D**



Legal Series for Seniors

Keeping Seniors Safe

The **Keeping Seniors Safe** class covers how to protect your personal safety, your personal information, your money and your property.

Information in this class is GENERAL INFORMATION ONLY – It is not legal advice. If you want help with your situation, talk with an attorney.

How to protect your personal safety.

Threats to your personal safety may include neglect or mistreatment by caregivers, elder abuse or domestic violence. If you do not feel safe, get help!

Ways to get help

- Call 911 if you are in immediate danger
- Call your local legal aid office. You can find your local legal aid office at: **ohiolegalhelp.org**
- Call your county Adult Protective Services office. They may be able to investigate and protect you. You can call APS 24/7 at: 1-855-OHIO-APS (1-855-644-6277) toll-free.
- Call Domestic violence service providers
 - You can call the Domestic Violence Hotline to find local Domestic Violence service providers at: 1-800-799-7233 or TTY 1-800-787-3224
- Call a counselor or other trusted professional
- Call the Court

Others who may be able to help you

- Your doctor or nurse
- Your religious advisor
- A trusted friend
- Your local Area Office on Aging at: 1-866-243-5678.
- United Way 2-1-1

How to get help if you live in a nursing home

If you are being abused or neglected, call the Long Term Care Ombudsman at: 1-800-282-1206.

EXAMPLE

Sally's son, Mark, has fallen on hard times. Mark showed up at Sally's door one day with his girlfriend, Jean, and her two teenage children. Mark and Jean moved into Sally's bedroom and moved Sally's belongings to the guest room. Jean's children are sleeping in Sally's living room. Sally's bank debit card is missing and she is worried that Mark may be taking money from her bank account without her permission. Mark is also allowing Jean to take and use Sally's car. At first Sally thought she was helping Mark out, but things have gotten out of hand. Sally told her life-long friend, Maria, what was happening. One morning Maria brought Sally to her home and helped Sally call her local legal aid office. Sally's legal aid lawyer explained the steps Sally could take to remove Mark, Jean and Jean's children from her home and let her know that legal aid would be able to help. Legal aid also helped Sally contact her bank to get a new debit card and make sure there were no more unauthorized withdrawals from her account.

What if my family doesn't like how I am living?

As long as you are “legally competent” you may make your own decisions – even if your family disagrees.

EXAMPLE

Sally's daughter, Anne, has always been such a help to Sally. Lately, though, Anne thinks she knows what is best for Sally. Anne has been talking about selling Sally's home and Sally moving in with Anne. Sally finally tells Anne that she appreciates all she does for her, but she is quite capable of making her own decisions. Sally tells Anne that she wants to stay in her home for as long as she is able. Sally and Anne have a long talk about the ways Anne might help her do that.

What if I need help to manage some things?

The Financial POA & More class covers many of the ways someone might be able to help you if you need it.

EXAMPLE

After Sally and Anne have their talk, they both decide to take the Plan Ahead & Protect Yourself Series for Seniors Financial Powers of Attorney & More and Health Advance Directives classes, to learn more about how Anne might be able to help Sally while Sally is still able to tell Anne her wishes, and even when she is not.

How to protect your money.

Be safe, not sorry *Avoid scams and schemes.*

Watch out for people who may try to take advantage of you or take your money. Scammers may pretend to be your friend or a family member, may pretend to be a bill collector, or threaten legal action. Scammers may tell lies to scare you into giving them money. Scammers may contact you by phone or e-mail. Always get the facts before you agree to pay any money.

EXAMPLE

Sally answers the phone and the person on the other end tells her she has won a \$10,000 lottery prize. Sally doesn't remember entering a lottery but at first, she is excited! The person tells her all she needs to do to claim her prize is send \$1000 dollars to cover costs and fees and provide the person on the phone with her bank information. Sally remembers what she has learned about scams and schemes and hangs up.

Financial exploitation is improperly taking advantage of another person's money.

For more information call or visit the websites of:

- The Ohio Attorney General's Office: www.ohioattorneygeneral.gov
- The Consumer Financial Protection Bureau: consumerfinance.gov
- The Better Business Bureau



Keeping Seniors Safe

How to protect your private information.

Be safe, not sorry *Protect your Private Information.*

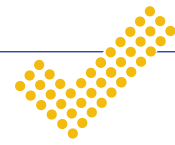
Private information is your financial information and your personal information. People may want to use your private information for their own financial gain. They may pretend to be you and take your money or seek medical care so you get the bill. Do not give anyone your personal information unless you trust them completely.

- Do not share your Social Security number, bank account number, credit card numbers or account passwords.

How to protect your information that appears on paper.

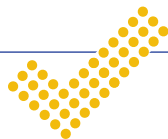
Be safe, not sorry *Protect your information that appears on paper.*

Keep important papers in a safe place. Destroy papers you no longer need. Don't just put them in the trash.



Take a Tip

Shred any paper that has your personal or financial information on it.



Take a Tip

Ask someone you trust to help you with calls you are not sure about.

How to protect your information when you are on the phone.

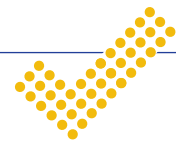
Be safe, not sorry

Beware of callers asking for your personal information over the phone or to make a quick decision over the phone. Confirm who is calling. Ask for things to be sent to you in writing.

How to protect your information when you are on a computer.

Be safe, not sorry

Never click on attachments you are not sure of. Never go to websites you are not sure of. Always contact the sender of an e-mail asking for your private information in a way you know is safe.



Take a Tip

Always call your bank instead of responding to an e-mail.



Legal Series for Seniors

Financial Power of Attorney (POA) & More

The **Financial POAs & More** class covers:

- Ways you can get someone to help you manage your money
- How to get help without being harmed
- Information about a Financial POA
- What you can do if something goes wrong
- Other useful information

Information in this class is GENERAL INFORMATION ONLY – It is not legal advice. If you want help with your situation, talk with an attorney.

Do You Need Help Managing Your Money?

There are many ways you can get someone to help you manage your money. Questions to ask yourself, or things to think about are:

- *Do I need help?*
- *What do I need help with?*
Banking? Bill paying? Buying or selling property? Investing? Other things?

Depending on the help you need, there may be different options to think about.



Think About It!

I need help with the following financial matters:

I need help with this financial item, because:

How can I get someone to help me handle my finances?

There are many ways you can get someone to help you handle your finances. Some of them are:

- Joint Bank Accounts
- Representative Payee
- Authorized Representative
- Financial Power of Attorney
- Conservatorship
- Guardianship
- Financial Services

Which way will work best for you?



Take a Tip

Select the most workable way, but one which involves as little risk as possible!

Informal ways to get help:

Joint Bank Account

A joint bank account is a bank account you and another person own together. Usually, all of the money in the account belongs to both persons. Either “owner” can take and use the money.

This method may help you if you aren’t able to do your own banking. The joint owner can deposit or withdraw money from the account to help you with your expenses and pay your bills.



Think About It!

John is a 65 year old man who was recently in an accident and cannot leave his home for a while. John added his 30 year old son, Ed, as a joint owner on his checking account to help him with his banking.

Question 1: *What is helpful for John about having Ed on his checking account?*

Question 2: *What possible problems could John face with Ed on the account?*

Did you think about it?

How it might be helpful

John now has someone to handle the banking he is unable to do. If he can trust his son completely, and he does a good job, this can provide peace of mind for John and help him handle his affairs well.

How it might be harmful

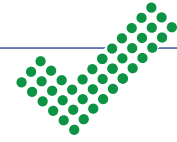
If Ed is not as trustworthy as his dad believes, it could be a problem. Ed could help himself to his dad’s money and use it for himself. If Ed has debts like a credit card debt and is sued because he stops paying on it, a court may allow the credit card company to take the money John put in the joint account to pay Ed’s debt. This could be a problem for John!



Financial POAs & More

Credit and Debit Cards

You might choose to let someone else use your credit or debit card to help you. You might do this informally by giving them the card and your password. Or, you might add them as an authorized user with your bank or credit card company.



Take a Tip

BE CAREFUL! If someone is able to use your credit or debit card, they also may be able to MISUSE it and take your money or charge things for themselves.

Representative Payee

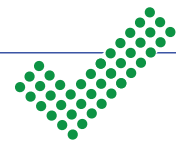
If you receive Social Security benefits or certain other government benefits and you are unable to manage your money yourself, a Representative Payee may be appointed to receive and spend the funds on your behalf. Check with Social Security or other government agencies that might be the source of your benefits for more information and the forms you will need.

Authorized Representative

If you are applying for, or receiving, public benefits such as food assistance, cash assistance, or Medicaid, you may be able to name another person to handle certain things for you. Contact your county Department of Jobs & Family Services (or other agency involved) for more information and forms. You can find your county Department of Job & Family Services at: jfs.ohio.gov

Financial Services

If you want help, and can afford it, you might hire someone to handle your financial matters.



Take a Tip

BE CAREFUL! Make sure the service you choose is honest and has required licenses.



Take a Tip

Ask about free or low cost services that may be available through your bank – like automatic deposits or automatic bill pay services.



Think About It!

Sally is 77 years old and it is not as easy for her to run errands like she once did. Sally always pays her electric and gas bills by walking to the local convenience store that accepts payments for the companies. This is getting difficult for her.

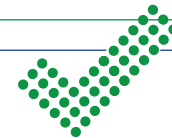
Question: *Is there an easier way for Sally to pay her electric and gas bills?*

Did you think about it?

Sally could pay her electric and gas bills by setting up an “automatic bill pay” with her bank or utility company. The payment would be made automatically out of her checking account, on time, without Sally having to walk to the store.

Other Informal Methods

There might be some other simple ways to get help with your finances. You might be able to have a trusted family member or friend (especially someone good with numbers) help you do a budget, review and organize your bills, set up a schedule to pay bills, look at your bank statements, and other helpful things.



Take a Tip

BE CAREFUL! Whenever you let someone get close enough to help you, it is also possible for them to harm you!



Test Yourself!

Matching. Match the description on the left with the term on the right.

- | | |
|--|---------------------------------------|
| 1. ____ You can ask your credit card company to add another person on your account who can use the card to make purchases. | A. Joint Account |
| 2. ____ You and another person can withdraw money from the same bank account. | B. Automatic Bill Pay |
| 3. ____ You have your bank automatically pay some of your bills each month from your bank account. | C. Financial Services |
| 4. ____ Social Security appoints a person to receive your social security funds for you. | D. Authorized credit card user |
| 4. ____ You hire and pay someone to handle your financial matters for you. | E. Representative Payee |

answer key:

1. **D** 2. **A** 3. **B** 4. **E** 5. **C**



Formal Methods:

Most of the ways to get help handling your finances discussed so far are fairly simple to set up. There are more “formal” ways to get help that may be a little more complicated to set up but may offer a few more protections from abuse. In the next section of the Workbook, we will discuss:

- **Financial Power of Attorney or POA**
- **Guardianship**
- **Conservatorship**

There are other formal methods like trusts, contracts or employment relationships which may also be helpful. We will not discuss those here. If you want more information about these methods, you should talk to an attorney.

Financial Power of Attorney

EXAMPLE

Sally's eyesight is not as good as it once was and she is finding it difficult to read and pay her bills. Sally has given her daughter, Anne, a Financial Power of Attorney or POA that allows Anne to write checks from Sally's checking account. Anne is Sally's agent.

With a POA, you let someone else handle financial matters for you. The person you appoint to help you is called your Agent. Your agent can handle banking, bill paying, or other financial tasks for you.

YOU decide what you want your agent to be able to do

EXAMPLE

In her POA Sally has only given her agent, Anne, the power to pay her bills, not sell her car or her home.

YOU decide when the POA will start – now or later

EXAMPLE

In her POA, Sally decided that Anne's power to start making payments does not begin until a date later this year.

YOU decide whether your agent can act for you even if you are “incapacitated”. This is called a Durable Power of Attorney. A Durable Power of Attorney has no time limit.

EXAMPLE

Sally has been diagnosed with dementia but is still competent. She gives her daughter, Anne, a Durable Power of Attorney. Anne’s powers under the POA will continue even after the dementia has made Sally incapable of communicating her wishes.

Ohio has laws about what agents have to do and what agents may do.

EXAMPLE

Anne can only use the money in Sally’s checking account to pay Sally’s bills. Anne cannot use the money to pay her own bills.

How to make a Financial POA

Ohio has a suggested form for the POA. You can find the suggested form at www.legalaidline.org or ohiolegalhelp.org.

A POA must be in writing

A POA should be notarized

A POA should include:

- The name of the Agent
- The duties of the Agent
- Any special instructions you have for the Agent



Take a Tip

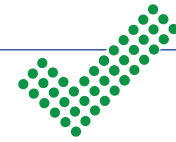
Contact all the banks and agencies you deal with to find out if the POA forms you are using are acceptable to them. Some banks and agencies may have their own form they will require you to use.



Financial POAs & More

How to choose your Agent

- Choose someone you TRUST completely
- Choose someone who has the ability to do the job
- Choose wisely! Remember – when you let someone help you with your finances, they may harm you!
- You may also choose a successor agent – or a “back-up” agent.



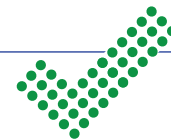
Take a Tip

When you let someone help with your finances, use safeguards. One simple safeguard is to continue to have your bank statements sent to you.

EXAMPLE

Sally named her daughter Anne as her agent in her Durable Financial Power of Attorney. She named her daughter Kelly as her successor agent. While Sally is still alive, Anne dies. Kelly will take over as Sally’s agent under her Durable Financial POA.

- You may also choose to have “co-agents” instead of just one agent. Co-agents must agree and act together.



Take a Tip

Having co-agents who must agree may make handling your affairs a lot more complicated.

EXAMPLE

Sally has chosen her daughter, Anne, to be her Durable Financial POA. She trusts Anne and because Anne is a bookkeeper she also knows that Anne will know how to handle her money. Sally trusts her son Mark but knows he has never been able to balance a checkbook.

How to end a Durable Financial POA

You can end your Durable Financial POA by “revocation”. This means that you sign a written statement that says you want the POA to end. The statement should be dated and you should sign it in front of a notary public. Be sure to give a copy of the revocation to anyone you think might believe the POA is still in effect.

A POA will also end upon the death of the principal.

EXAMPLE

Sally named her daughter, Anne, as her agent through a Durable Financial POA. Sally and Anne have had a disagreement and Sally no longer wants Anne to be her agent. Sally must sign a document saying that she is revoking the POA she previously gave to Anne.





Financial POAs & More

What to do if things go wrong.

- Move quickly – take action as soon as you learn that something is wrong.
- Revoke (cancel) your POA.
- Get Help!
- You might get help from the legal system:
 - Law enforcement
 - Courts
 - Your local legal aid
 - A private attorney



Take a Tip

If you revoke a POA you should send copies of the revocation to all the banks and agencies you previously gave copies of your POA to.

Guardianship

If you don't have a durable Financial POA and you become "incompetent" the Probate Court may have to appoint someone to make decisions for you. The person appointed by the court is called a "guardian". The incompetent person is called the "ward".



Think About It!

Sally has been in a car accident and is in a coma from her injuries. Sally did not have a Durable Financial Power of Attorney and no one can make financial decisions for her. Sally's daughter, Anne, asks the Probate Court in the county where Sally lives to appoint her to be Sally's guardian.

Question 1: *How will the Guardianship help Sally?*

Question 2: *Is there an easier way for Sally to get help?*

Did you think about it?

- Once she is appointed guardian, Anne can make financial decisions for Sally while Sally is incompetent. Before she could be appointed, Anne had to pass a criminal background check and, in some cases, a credit check. Before making any financial decisions for Sally, Anne must get the approval of the Probate Court. All of the decisions Anne will make will be overseen by the Probate Court.
- Guardianships involve time, money and paperwork. It may have been easier for Sally to get the help she needed if she had a durable Financial POA.

Types of Guardianships:

There are three types of guardianships:

- **Guardianship of the Person**
A guardianship of the person is appointed to make personal decisions for the ward such as where to live.
- **Guardianship of the Estate**
A guardianship of the estate is appointed to manage money and make financial decisions for the ward.
- **Guardianship of the Person and the Estate**
A guardianship of the person and the estate is appointed to make personal and financial decisions for the ward.

Who can be a guardian?

A guardian must be an adult person. In very limited instances, a guardian may be an association or a corporation.

Who cannot be a guardian?

A guardian cannot be someone who provides a direct service to the ward such as a nursing home, nurse, home health aide or any other caregiver who is paid for their services.

When is a guardian appointed?

A guardian is only appointed by the Probate Court after the court has determined that:

- the proposed ward is incompetent
- the proposed guardian is suitable

How does a court determine that a ward is incompetent?

The person seeking the guardianship must have the proposed ward examined and evaluated by a medical professional. The medical professional will evaluate the ward's physical and/or mental health and then write a report called a Statement of Expert Evaluation. The court uses the expert's report and other factors to make its decision.

EXAMPLE

Sally's daughter, Anne, is worried about Sally. She believes she may be suffering from dementia. Anne asks the Probate Court to name her to be Sally's guardian. Sally is evaluated by Dr. Jones. Dr. Jones finds that Sally's mental skills are weak. Dr. Jones submits a Statement of Evaluation to the Probate Court.



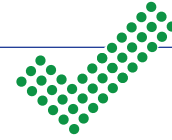
Financial POAs & More

Court Hearing

The court must hold a hearing before a proposed ward can be determined to be incompetent and a guardian appointed. If the proposed ward cannot afford an attorney the court must appoint one.

How does a Guardianship end?

A guardianship will last as long as the ward is incompetent or when the ward passes away. It may also end if a guardian is removed by the court or withdraws because they are no longer able to perform their duties. If the ward is still incompetent, a new guardian will likely be appointed.



Take a Tip

If you plan ahead by naming an agent in a durable financial power of attorney and a health care power of attorney, a guardianship may be unnecessary if you become incompetent.

Conservatorship

A competent adult can ask a Probate Court to appoint someone to handle their personal and/or financial affairs when they are sick, facing a major operation and recovery or other life event where they will need help to make personal and/or financial decisions. The person asking the court for help is called the “ward”. The person appointed by the court to provide the help is called the “conservator”. The relationship between the conservator and the ward is known as a “conservatorship”.

How is a Conservatorship different from a Guardianship?

A conservatorship is different from a guardianship in several ways:

In a conservatorship the ward:

- Is competent
- Can choose their conservator
- Can limit the power of the conservator
- Can end the conservatorship when they choose

EXAMPLE

Sally will be in a nursing home for several weeks recovering from a major operation. She has asked her county Probate Court to name her daughter Anne as her conservator. Sally has decided that Anne will only have the power to make financial decisions for her. When Sally is released from the nursing home, she will end the Conservatorship.

Why would someone choose a Conservatorship over a Financial POA?

The main benefit of a Conservatorship is that the Probate Court oversees what the Conservator is doing. You get oversight by the Court in a Conservatorship. You do not get oversight with a Financial POA. Of course, a Conservatorship can be expensive because the Court is involved.

How do you end a Conservatorship?

A Conservatorship may end when:

- The ward ends the conservatorship by writing a Termination Notice of the Conservatorship and submits it to the court
- The court decides the Ward is no longer competent
- The ward dies
- The court orders an end to the Conservatorship



Test Yourself!

Matching. Match the description on the left with the term on the right.

1. _____ You fill out a form to appoint an agent to handle some of your financial matters	A. Guardianship of the Estate
2. _____ Someone a court appoints to make decisions for a person who is incompetent.	B. Ward
3. _____ A person determined to be incompetent by a Probate Court.	C. Guardianship of the Person
4. _____ One of the main differences between a ward in a Conservatorship and a ward in a Guardianship.	D. Financial POA
5. _____ When a court appoints someone to manage an incompetent person’s financial affairs.	E. Competence
6. _____ When a court appoints someone to manage an incompetent person’s personal affairs.	F. Guardian

answer key:
1. **D** 2. **F** 3. **B** 4. **E** 5. **A** 6. **C**



Legal Series for Seniors

Health Advance Directives

The **Health Advance Directives** class covers:

- Ways you can get someone you trust to make health care decisions for you when you cannot
- Ways you can tell your doctors, in advance, the kind of health care you want if you are terminally ill or permanently unconscious – called “end of life” situations
- Information about Health Care Powers of Attorney and Living Wills
- Other useful information

Information in this class is GENERAL INFORMATION ONLY – It is not legal advice. If you want help with your situation, talk with an attorney.

Health Care Power of Attorney

A Health Care Power of Attorney is a legal document where you let another person, your agent, make health care decisions for you when you cannot make them for yourself. This does not just apply to “end of life” situations. It applies any time you are not able to communicate your health care wishes.

EXAMPLE

Sally has a Health Care POA. She named her daughter, Anne, as her agent. In the coming weeks, Sally will be undergoing an operation. She will have to be unconscious during surgery. If an unexpected health care decision has to be made for Sally during the operation, Anne will be able to make it for her.

What powers does a Health Care POA have?

A Health Care POA only gives your agent the ability to make health care decisions for you. It is not a Financial POA – which gives your agent the right to make financial decisions for you.

Are there limits to what my Agent can do?

Yes. Your agent only has as much power as the Health Care POA gives them. If there are certain decisions you do not want your agent to make, you can remove them from the Health Care POA form by crossing them out. You can also add items, special instructions or provide greater detail about how you want things done and decisions to be made.

Your agent CANNOT:

- Stop or prevent you from getting care you need for your comfort or pain relief;
- Stop life sustaining treatment UNLESS you are:
 - In a terminal condition OR
 - Permanently unconscious AND
 - The treatment is not needed for your comfort AND
 - You have given your permission in the form.

EXAMPLE

Sally was in a very bad car accident. Sally's doctor examines Sally and says she is brain dead and there is no hope she will recover. Another doctor examines Sally and agrees. Sally is only alive because a machine is breathing for her. Sally does not have a Living Will, but she does have a Health Care POA. Sally named her daughter, Anne, her agent before her accident. The Health Care POA gives Anne the ability to make any decisions regarding life sustaining treatment if Sally is facing a terminal condition. Anne will decide if Sally remains on the breathing machine or not.

How should I decide who should be my agent?

- You should choose someone you absolutely trust to carry out your health care wishes. You should also think about choosing an agent who will be able to carry out your wishes in a difficult and emotional time. Make sure you tell your agent the kind of care you would want and the things you would not want. If you do not provide special instructions, your agent is required by law to act in your best interest.
- Usually, you cannot name your doctor, your doctor's employees, your nursing home administrator or employees of your nursing home as your agent.
- Should I choose an Alternate Agent?
 - You may want to name one or more people as your "alternate agents" if your agent is not available when a decision needs to be made.

EXAMPLE

Sally has a Health Care POA and has named her daughter, Anne, as her agent. She has named her friend, Gail, as her alternate agent. Sally and Anne are in a car accident together and neither of them are able to communicate their wishes. Gail will be able to make decisions for Sally while she is unable to make health care decisions for herself.



Health Advance Directives

Other things you can do in your Health Care POA.

- You can give your agent access to your private health care information
- You can tell a Probate Court who you would like to be your guardian if you need one in the future by nominating someone in your Health Care POA



Take a Tip

Having a Durable Financial POA and a Health Care POA is one way of avoiding guardianship.

Who can make a Health Care POA?

To grant a valid Health Care POA, you must be:

- An adult
- Of sound mind
- Not under fraud, duress or undue influence from some other person

EXAMPLE

Sally is suffering from an advanced case of dementia. She frequently does not know who her closest family and friends even are. It is too late for Sally to grant anyone a Health Care POA.

How to make a Health Care POA?

- A Health Care POA must be in writing. Ohio has a form for the POA. You can find the form at www.legalaidline.org or ohiolegalhelp.org
- A Health Care POA must be signed in front of a notary OR two witnesses. Certain people CANNOT be witnesses, including:
 - Your agent
 - Your alternate agents
 - Your relatives
 - Your doctor
 - Your nursing home administrator



Take a Tip

Be sure to tell and give copies of your Health Care POA to your agent, your alternate agent, your doctors and other medical professionals and anyone else you want to know that you have a Health Care POA.

When does a Health Care POA start?

A Health Care POA starts right away and stays in effect even if you become incapacitated. If you sign a new POA, it will replace the last one.



Test Yourself!

Matching. Match the description on the left with the term on the right.

- | | |
|---|---------------------------|
| 1. _____ Is a document where you let another person make health care decisions for you if you cannot. | A. Your Doctor |
| 2. _____ Is someone who cannot be a witness to a Health Care POA. | B. Agent |
| 3. _____ Is the person appointed by a Probate Court to make decisions for you when you cannot make them for yourself. | C. Alternate Agent |
| 4. _____ Is the person who makes health care decisions for you when your agent is not available. | D. Health Care POA |
| 5. _____ Is the person who makes health care decisions for you through your Health Care POA. | E. Guardian |

answer key:

1. **D** 2. **A** 3. **E** 4. **C** 5. **B**

Living Will

- A Living Will is a legal document that allows you to say, in advance, the type of health care you want to receive if you are terminally ill or permanently unconscious and can no longer make decisions for yourself or your wishes known. This is an “end of life” document. A Living Will is NOT a “Will” or a “Last Will & Testament”. It has nothing to do with what happens to your property when you die.
- A Living Will tells your doctor, in advance, the kind of health care you want IF you are:
 - Permanently unconscious; or in a
 - Terminal condition
 - Permanently unconscious means that you are not aware of yourself or your surroundings and your condition cannot be reversed. At least two doctors must agree you have lost all higher brain function.
 - Terminal condition means your illness cannot be cured and your death will occur soon without life sustaining treatment. Your doctor and at least one other doctor must agree that your condition is terminal and cannot be cured.



Health Advance Directives

You are telling your doctor that you wish to be comfortable and free of pain but you want to be allowed to die naturally – without artificial means that just prolong your death. You are telling your doctor:

- Not to administer life sustaining treatments or care that prolongs the process of dying, including CPR
- To withhold or withdraw artificially or technologically supplied nutrition (such as a feeding tube) or hydration (such as IV fluids), if authorized in the form
- To issue a Do Not Resuscitate Order (DNR)
- To take no action to postpone your death, but to provide only the care you need for your comfort and pain relief

EXAMPLE 1

Sally is in a bad car accident. Sally's doctor examines Sally and says she is brain dead and there is no hope she will recover. Another doctor examines Sally and agrees. Sally is only alive because a machine is breathing for her. Sally completed a Living Will before her accident which tells her doctor she does not want to be kept alive by machines if she is in a permanent unconscious state. After notifying the people listed on her Living Will, her doctor will turn off the machine that is keeping her alive and allow her to die naturally – according to her wishes.

EXAMPLE 2

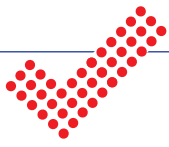
Sally has terminal cancer. Her daughter, Anne, stops in to check on Sally one morning on her way to work. Sally is still in bed and will not wake up or respond when Anne talks to her. Anne calls an ambulance and Sally is taken to the hospital. Sally's doctor examines her and says she is terminal with no hope for a cure or recovery. Another doctor examines Sally and agrees. Sally completed a Living Will several months before which tells her doctor she does not want to be kept alive by machines or to have her heart restarted if it stops if she is in a terminal condition. Sally's doctor talks to Anne about Sally's Living Will and her wishes. While at the hospital, Sally's heart stops beating. Because Sally has a Living Will on file at the hospital and the doctor already discussed the situation with Anne, hospital staff do not try to restart Sally's heart. Sally is allowed to die naturally – according to her wishes.

Will my doctor notify my family?

- As part of your Living Will, you can say who you want to be notified if life sustaining treatment is withheld or withdrawn. If you do not list anyone, your doctor will try to notify your family or your guardian if you have one.

EXAMPLE

In the example above, Anne is listed on Sally's Living Will as a person to be contacted. If Anne had not been at the hospital when Sally was admitted, the hospital staff would contact Anne before turning off the breathing machine.



Take a Tip

Be sure to tell and give copies of your Living Will to your agent and alternate agent if you have a Health Care POA, your doctors and other medical professionals and anyone else you want to know that you have a Living Will.

Will I still receive comfort care?

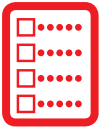
- Absolutely! You will always get comfort care and pain relief.

What if I want to be kept alive no matter what?

- If you want to be kept alive as long as possible and by all means available, you should NOT complete a Living Will.

How to make a Living Will

- A Living Will must be in writing. Ohio has a form for the Living Will. You can find the form at **www.legalaidline.org** or **ohiolegalhelp.org**
- A Living Will must be signed in front of a notary OR two witnesses. Certain people CANNOT be witnesses, including:
 - Your agent, if you also have a Health Care POA;
 - Your alternate agents, if you also have a Health Care POA;
 - Your relatives;
 - Your doctor;
 - Your nursing home administrator.



Test Yourself!

Multiple Choice. Mark the best answer.

Question 1: A document that tells doctors that I do not want life sustaining treatment if I am permanently unconscious.

- A Living Will
- B Last Will & Testament
- C Financial Power of Attorney

Question 2: If you complete a Living Will, you will be provided with:

- A Comfort or pain relief
- B All care needed to keep me alive even if I have a terminal condition.
- C A million dollars

Question 3: If you want to be kept alive by all means:

- A You should not complete a Living Will
- B Complete a Living Will
- C Complete a Last Will & Testament

True or False (T or F). Circle True or False for the following questions:

T or F: A Health Care POA gives your agent power to handle banking for you.

T or F: I can continue to make health care decisions for myself after I have made a Health Care POA.

T or F: A Living Will is the same thing as a Last Will & Testament

answer key: Quiz #1 1. A 2. A 3. A Quiz #2 1. F 2. T 3. F



Legal Series for Seniors

Wills & Estates

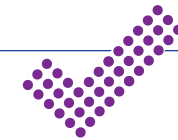
The **Wills & Estates** class covers:

- Ways your property can pass to others when you die
- What to think about when deciding if you need a Will
- How to make a valid Will
- Other useful information

Information in this class is GENERAL INFORMATION ONLY – It is not legal advice. If you want help with your situation, talk with an attorney.

How can property pass when I die?

- There are many ways property can pass when you die. Some of them are:
 - Joint Ownership with a right of survivorship
 - Bank Accounts
 - Real estate
 - Other assets
 - Payable on death accounts (POD)
 - Transfer on Death (TOD)
 - Last Will & Testament or Will
 - Life Insurance
 - Trusts
 - Ohio law
- You may not need a Will if you do not have a lot of property. You may choose to make informal arrangements to transfer your property OR rely on how your property will be distributed according to Ohio law.
- Which way will work best for you?



Take a Tip

Select the most workable way, but one which involves as little risk as possible!

What if I die without a Will?

Dying without a Will is called dying “intestate”. Ohio law says who gets your property if you die without a Will. This is usually your closest living family members.

How a Will can be helpful.

A Will lets you say:

- Who will get certain items. This is called a “bequest”.
- Who will get or share what is left over after your debts are paid and the bequests are made. This is called the “residuary estate”.
- Who will be in charge of making sure your wishes are carried out. This person is called the “executor”.
- Who will take care of minor children. This person is call a “guardian”.
- Other specific wishes you may have.



Think About It!

Mary has a joint bank account with her daughter, Susan, so Susan can help Mary with her banking and paying her bills. Mary also has a tea cup collection that she got from her mother when her mother passed. Mary does not own any other property. Susan is Mary’s only child. Mary plans to leave everything to Susan when she dies except a few teacups from her prized collection. She would like to leave those to her friend Beth.

Question 1: *Does Mary need a Will to pass her bank account to Susan when she dies?*

Question 2: *Might Mary need a Will to pass a few of her tea cups to Beth when she dies?*

Did you think about it?

Question 1: Since Susan is an owner of the bank account with Mary, Susan already owns the money in Mary’s bank account. Mary would not need a Will to pass her bank account to Susan when she dies.

Question 2: Mary might want to make a Will and include a “bequest” of a few teacups to Beth. That way, there is no confusion about what Mary’s wishes are. Mary could also make sure that Susan receives everything that is left over after her debts and bequests are made by making her the beneficiary of her residuary estate.



Wills & Estates

Things to think about if you decide to make a Will.

- Naming an Executor
 - An executor will be responsible for collecting your property, filing the papers with the probate court to “open” your estate and make sure your property goes to the people you want to receive them.
- Who will be living when you die
- Ohio law will not allow you to leave your spouse out of your Will. If you do, your spouse can still take the share they would have received if you never made a Will.

How to make a Will.

- A valid Will must be:
 - Signed by two witnesses. Your witnesses cannot be anyone named in the Will.
 - Usually, the Will must be in writing and signed by you and two witnesses. There are a few very limited circumstances when someone is in their last illness where an oral Will - that is reduced to a writing and signed by two witnesses- may be valid.

Who can make a Will.

- To make a valid Will you must:
 - Be an adult (18 years of age or older)
 - Understand what you are doing
 - Not be under pressure from someone else

EXAMPLE

Mary is suffering from an advanced case of dementia. She frequently does not know who her closest family and friends even are. It is too late for Mary to make a valid Will.

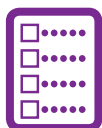


What is Probate?

- Probating a Will is presenting the Will to the Court to establish that it is valid.
- The Court makes sure your wishes are followed. This is called “Administration of the Estate”.
- Your executor usually asks the court to open the estate.
- If you do not have a Will, someone called an “Administrator” can ask the Court to be appointed to “Probate” your estate. An Administrator has the same duties as an Executor.

What if I don’t have much?

- If you did not own a lot of property at the time of your death, someone may ask the court for “Relief from Administration”. The dollar limits for Relief from Administration are set by law.
- For more information about relief from administration you may wish to speak to an attorney or call your county Probate Court.



Test Yourself!

Multiple Choice. *Mark the best answer.*

- | | |
|---|--|
| <p>1. Dying without a Last Will & Testament is called:</p> <ul style="list-style-type: none"> A. Testate B. Intestate C. Probate | <p>3. A valid Last Will & Testament must be signed by:</p> <ul style="list-style-type: none"> A. One (1) witness; B. Two (2) witnesses; C. Three (3) witnesses |
| <p>2. The Court process in which a deceased person’s belongings are distributed is called:</p> <ul style="list-style-type: none"> A. Probate B. Guardianship C. Domestic Relations | <p>4. The following property does not have to pass through probate:</p> <ul style="list-style-type: none"> A. Joint Bank accounts B. Life Insurance proceeds C. Both A and B. |

True or False (T or F). Circle True or False for the following questions:

- T or F:** If you do not have a Last Will & Testament, Ohio law will determine who gets your belongings.
- T or F:** You may not need a Will if you have limited assets.
- T or F:** You cannot disinherit your spouse.

answer key: Quiz #1 1. B 2. A 3. B 4. C Quiz #2 1. T 2. T 3. T

Where to find Plan Ahead & Protect Yourself classes:

1. Attend a LIVE class near you. For a list of scheduled classes, visit our website at: www.legalaidline.org
2. Visit our website at www.legalaidline.org to view class information at a time, place, and in a way that works best for you:



Listen



Read



Watch

How to make Plan Ahead & Protect Yourself classes available in your community:

- **HOST** a LIVE class at YOUR location.
- **MAKE** class materials available at YOUR location.
- **PUBLICIZE** a LIVE class at a COMMUNITY site.

For more information call LAWO at: 1-877-894-4559.

For other legal issues:

1. Call Legal Aid Line at: 1-888-534-1432. The Intake line is open Monday through Friday from 9 am – 4 pm. Carefully input your phone number, including area code. You will receive a call back by 5 pm the same day.
2. Begin an application online at www.legalaidline.org. The online application is open 24 hours/day, 7 days/week. You will be called back by an Intake Specialist within 48 to 72 hours after submitting the online application.
3. Walk into any LAWO office between 9 am - 4:30 pm. You will be connected to an Intake Specialist.



Legal Aid of Western Ohio, Inc. is a non-profit law firm serving the civil legal needs of western Ohio's low-income individuals, families and seniors. This information is not legal advice. It is general information. It is not a substitute for talking to a lawyer about your situation. You may still need help from a lawyer. **Find videos, forms, helpful links and more at: www.legalaidline.org.** *Last updated October 2018.*

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