

# **DUKE DEMENTIA FAMILY SUPPORT PROGRAM**

## **Caregiver Connections**

**An Educational Webinar Series With The Experts**

**The presentation will begin shortly.  
Thank you for your patience!**

**[dukefamilysupport.org](http://dukefamilysupport.org)**

**919-660-7510**



clarity.  
LEGAL GROUP

**CLEAR ANSWERS TO LIFE'S CHALLENGES**

# Our Office

## From Chapel Hill:

Start on East Franklin Street and take a right onto Raleigh Street  
As it dead ends, take a left onto Country Club Road  
Turn Left onto Raleigh Road  
Turn right onto W. Barbee Chapel Rd and your destination will be on your left

## FROM DURHAM:

Begin on NC 147 S to I-40 W  
Take I-40 W to exit 273A to merge onto NC-54 W toward Chapel Hill.  
Turn left onto W. Barbee Chapel Rd  
Your destination will be on your left

## FROM RALEIGH:

Take I-40 W to exit 273A to merge onto NC-54 W toward Chapel Hill.  
Turn left onto W. Barbee Chapel Rd  
Your destination will be on your left





# Today's Audience: Caregivers

- A loved one needs help
- Some level of incapacity
- May be resisting help
- May or may not have legal capacity
- May be doing things that harm them
- YOU WANT TO HELP



## First Advice: Run, Don't Walk

- To your nearest estate planning lawyer
- Why? Good legal documents are important!
- Capacity tends to get worse, not better
- Dementia diagnosis doesn't (always) mean legal incapacity
- Good documents may save a LOT of time, money, and effort later



# What Legal Documents?

- General Durable Power of Attorney
- Health Care Power of Attorney
- Living Will
- HIPAA Authorization
- Will, and perhaps Revocable Living Trust



# Legal Documents Don't Solve Every Problem

- Principal still has ability to act on their own behalf
- You may be their agent, but they may still take actions that harm their own interests



# Guardianship

- This is the most powerful legal tool in these situations
- Alleged ward may be found incompetent by a court
- If so, court will appoint a guardian
- Ward's rights are removed and placed under control of guardian





## Why should you want to avoid guardianship?

- Emotional toll and damage to family unity
- Uncertainty of the court's outcome
- Costs associated with court proceeding
- Particularly if contested



## When is Guardianship Necessary?

- ▶ When it is too late to sign documents due to incapacity
- ▶ When your loved one, despite signing documents, is acting recklessly
- ▶ When your loved one resists, undermines, or attempts to revoke your power to act
- ▶ When your loved one has appointed an agent who is acting inappropriately



## What About Non-Legal Tools?

- When your loved one can no longer sign documents
- When your loved one has signed documents but is resistant to help
- What can you do, how can you do it most effectively?
- How can you protect yourself from liability?



# Dealing with Dementia Patients

- Disclaimer: not my primary expertise
- Flexibility is key, as is persistence and a positive attitude
- Roll with the punches
- Let them live in their world; don't try to wrench them "back to reality"



## Assisting a Loved One

- Organization, record keeping
- Strict segregation of assets
- Use and danger of joint accounts
- Beware of potential adverse parties
- Seek guardianship if necessary



**Any Questions?**



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