



Pierce County

## **Alzheimer's Conference 2020**



**Aging and Disability Resources and the Health  
Care Providers Council of Pierce County present  
the 2020 Alzheimer's Conference**

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**Legal and Financial Planning - September 24, 2020**

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## Northwest Justice Project

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# Roadmap

- Estate Planning
- Probate
- Guardianship
- Long-Term Care
- Resources
- Questions



**“Our legal department wants us to download their new software. It translates gobbledygook to mumbo jumbo.”**

# Estate Planning

- Will
- Trusts
- Durable Power of Attorney
- Health Care Directives
- Other Estate Planning Tools



# Estate Planning

▶ Estate Planning is the process of planning for death or incapacity through legal documents such as Wills, Durable Powers of Attorney, and Health Care Directives.

# Essential Documents

- Will – Property transfer at death
- Durable Powers of Attorney – Allows for another person (Agent) to make medical and financial decisions for you when you are unable
  - No longer valid at death
- Health Care Directive – End of life document that allows you to instruct doctors about whether you want artificial nutrition/hydration

# Other Estate Planning Tools

- POLSTs (Physician Order of Life-Sustaining Treatment) – bright green form that your doctor signs; applies to paramedics
- Community Property Agreements – allows married couples to avoid probate after first spouse passes; can result in Medicaid ineligibility
- Disposition of Remains – tells funeral home what you want done with your body when you pass away
- Guardianships – last resort, if you do not have a Durable Power of Attorney; court process

# Trusts

## 2 Main Categories:

- Testamentary – Within a Will and only goes into effect at death
- Stand alone – Trust that can go into effect before death and is not in a Will

# Testamentary Trusts

- Special Needs Trust – Can preserve public benefit eligibility of surviving spouse, especially regarding long-term care
- Educational Trust – Helps pay for education of children/grandchildren
- Spendthrift Trust – Keeps financially irresponsible child from spending inheritance all at once

# Stand- Alone Trusts

- Revocable Living Trust – Can be revoked or changed
  - Helps avoid probate
  - Can avoid disinheritance of stepchildren
- Irrevocable Trusts – Can NOT be revoked or changed
  - Primary purpose – to protect assets from taxation and creditors
  - Many types:
    - Estate tax protection – large estates greater than \$5 million
    - Assist with Medicaid eligibility IF done 5+ years in advance of needing Medicaid

# Probate

- Probate is the legal process of distributing a person's assets and paying off debts after that person passes away.



# WA Probate

- 4-6 month process (one of the shortest in the country)
- Very little court involvement
- Main ways to avoid probate:
  - Estate worth less than \$100,00
  - Community Property Agreement
  - Revocable Living Trust
  - Have only assets not subject to probate

# Guardianship

A guardian is a person appointed by a court to manage the affairs of a person who is incapacitated.



# Guardianship

- Incapacity - demonstrated inability to adequately manage property or financial affairs, and/or provide for nutrition, health, housing or physical safety.
- Right to council
- Loss of rights
- Reporting

# Long Term Care



# Long-Term Care

70% people turning 65 can expect to use some kind of Long-Term Care.

- Nursing Home Care = \$104,000/year
- Adult Family Home = \$56,000/year
- Assisted Living = \$57,000/year
- In-Home Care = \$49,000/year

# Long-Term Care

Paying for care:

- Private pay
- Long-term care insurance
- Medicaid/COPES
- VA Pension/Aid & Attendance
- Reverse Mortgage



# Long-Term Care

**Medicaid:** covers long-term care, but strict requirements.

- Most income goes to care except personal needs allowance.
- Community Spouse Resource Allowance
- Assets - \$2,000 for single person
- 5-year lookback period
- Estate Recovery

# Long Term Care

- **Exempt Assets/Resources**

- Home (equity < \$595,000)
- Household goods & personal effects
- Car
- Life insurance (face value < \$1,500)
- Most burial plots and prepaid burial plans
- Items used for self-support, especially durable medical equipment

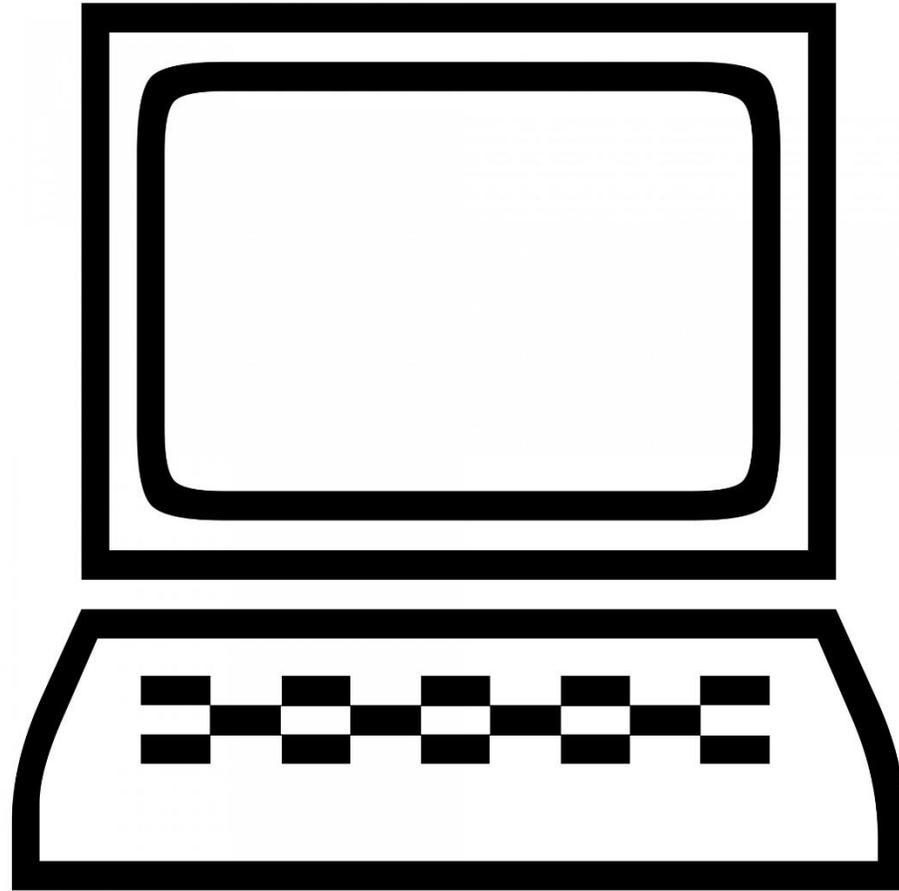


# Veterans Aid & Attendance

Monthly payments added to the amount of a monthly VA pension for qualified Veterans and survivors.

- Nursing home, bedridden, severe visual impairment or need help with activities of daily living.
- 90 consecutive days active service (one day during wartime).
- Net worth < \$129,094, not exempt assets (same as Medicaid)
- 3-year lookback period

# Free Resources



[www.washingtonlawhelp.org](http://www.washingtonlawhelp.org)





Legal help for Washingtonians who cannot afford a lawyer.

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### Coronavirus (COVID-19) Info

#### Family & Safety



- Divorce/Separation
- Domestic Violence
- Parenting Plans/Custody
- More issues** >

#### House & Apartment



- Eviction
- Tenant's rights
- Vouchers, Subsidies, Rent Assistance
- More issues** >

#### Money & Debt



- Bankruptcy
- Car Issues
- Debt collection
- More issues** >

#### Employment



- Employment rights
- Unemployment benefits
- Workers'

#### Seniors



- Abuse & Exploitation of Seniors
- Power of Attorney

#### Health



- Coronavirus (COVID-19)
- Medicaid / Medicare
- Medical bills

#### Washington Forms Online



Do-It-Yourself Forms

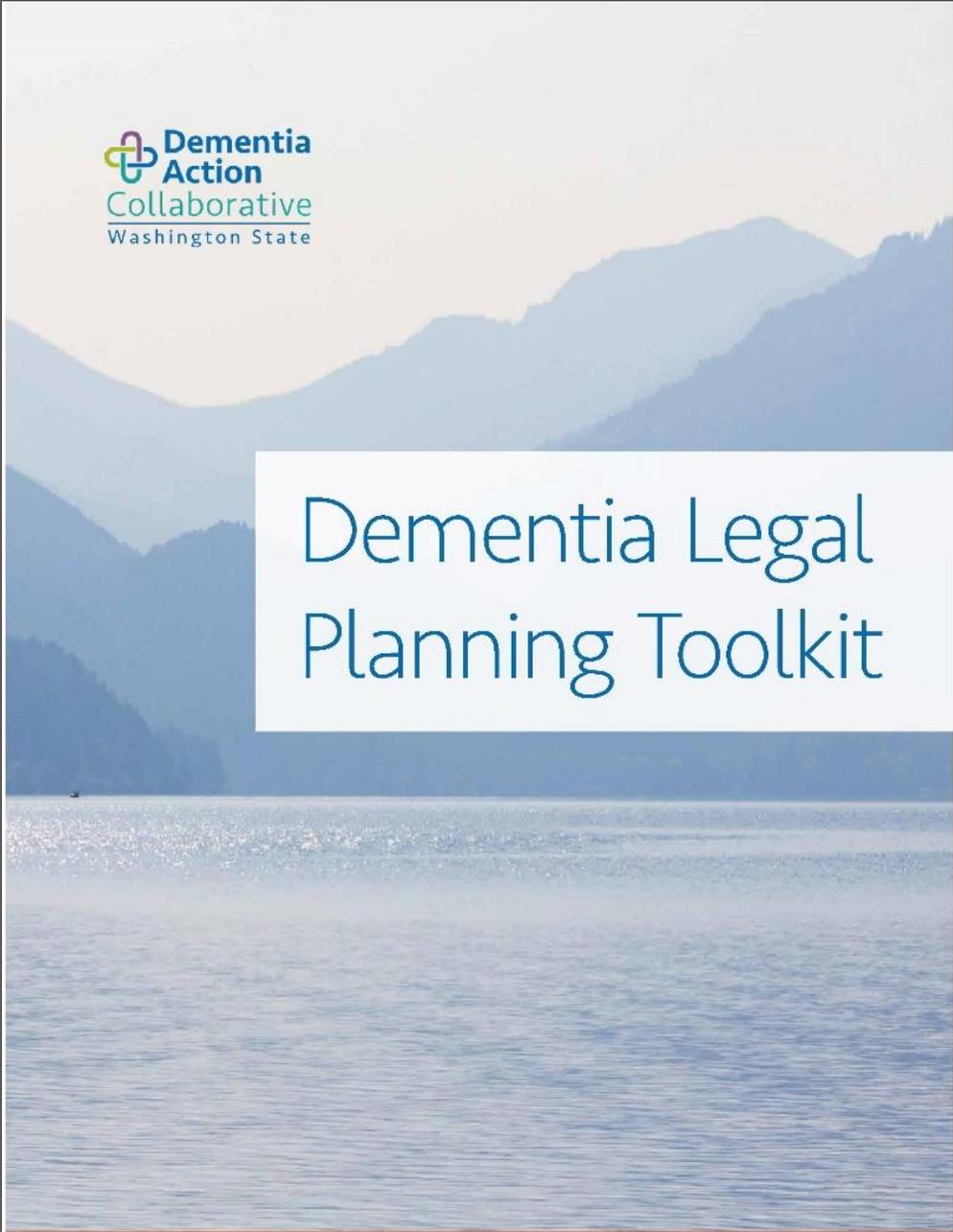
**COVID-19: Get Legal Help**

#### Legal News

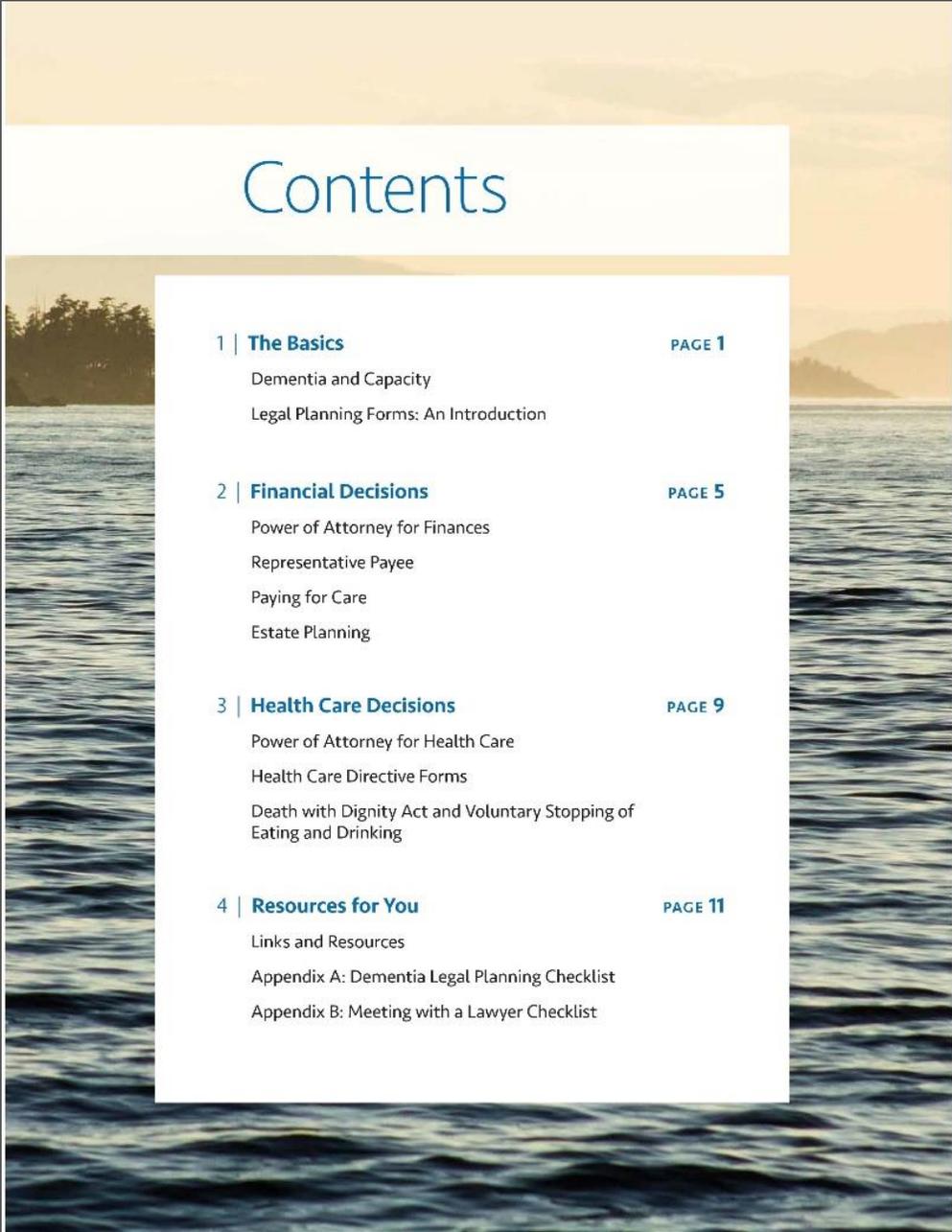
Coronavirus (COVID-19) Info

The New Public Charge Rule - What You Need to Know

Apply for Health



Dementia Legal  
Planning Toolkit



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## Durable Power of Attorney for Health Care for

\_\_\_\_\_  
[My Name]

- 1. Agent.** I choose \_\_\_\_\_ as my Agent with full authority to manage my health care.
- 2. Alternate.** If \_\_\_\_\_ is unable or unwilling to act, I choose \_\_\_\_\_ as my Agent with full authority to manage my health care.
- 3. My Rights.** I keep the right to make health care decisions for myself as long as I am capable.
- 4. Durable.** My Agent can still use this power of attorney document to manage my affairs even if I become sick or injured and cannot make decisions for myself. This power of attorney shall not be affected by my disability.
- 5. Start Date.** This power of attorney document is effective on the day I sign it.
- 6. End Date.** This power of attorney document will end if I revoke it or when I die. If my spouse or domestic partner is my Agent, this power of attorney document will end if either of us files for divorce in court.
- 7. Revocation.** I revoke any other power of attorney for health care documents I have signed in the past. I understand that I may revoke this power of attorney document at any time by giving written notice of revocation to my Agent.
- 8. Powers.** My Agent shall have full power and authority to do anything as fully and effectively as I could do myself, including the power to make health care decisions and give informed consent to my health care, refuse and withdraw consent to my health care, employ and discharge my health care providers, apply for and consent to my admission to a medical, nursing, residential or other similar facility that is not a mental health treatment facility, serve as my personal representative for all purposes under the Health Insurance Portability and Accountability Act (HIPAA) of 1996, as amended, and to visit me at any hospital or other medical facility where I reside or receive treatment.
- 9. Mental Health Treatment.** My Agent is not authorized to arrange for my commitment to or placement in a mental health treatment facility. My Agent is not authorized to consent to electroconvulsive therapy, psychosurgery, or other psychiatric or mental health procedures that restrict physical freedom of movement.
- 10. No Power to Agree to Pre-Dispute Binding Arbitration.** My agent does not have the power to agree to pre-dispute binding arbitration or any other process involving my person or property that limits my right to a jury, to sue for money, or to join a class action.

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# QUESTIONS AND ANSWERS ON THE COPES PROGRAM

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SOLID GROUND – BENEFITS LEGAL ASSISTANCE

JULY 2020

*THIS PAMPHLET IS ACCURATE AS OF ITS DATE OF REVISION. THE RULES CHANGE FREQUENTLY.*

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## 1. What is COPES?

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COPES is a Home and Community Based Services (HCBS) waiver program that pays for services for people in community settings. These services help people who would otherwise need to be in nursing homes. “COPES” stands for Community Options Program Entry System.

The services offered through the COPES program are administered by Home and Community Services, a division of the Washington State Department of Social and Health Services (DSHS). DSHS determines whether you are eligible.

**Important Note About COPES: People on COPES are eligible for the Qualified Medicare Beneficiary (QMB) Medicare Savings Program. QMB pays your Medicare premiums, co-payments and deductibles. If you are on COPES, you are QMB-eligible even if your income would ordinarily be too high to qualify. See Medicare Savings Programs: Help Paying for Medicare Costs at Medicare Savings Programs on [www.washingtonlawhelp.org](http://www.washingtonlawhelp.org) for more information about QMB.**

Apply for COPES one of two ways: by filing an application online or by submitting a paper application to a local DSHS Home and Community Services (HCS) office.

The website for filing an online application is Washington Connection

<https://www.washingtonconnection.org/home/>

The website for downloading a paper application [form HCA 18-005, Washington Apple Health Application for Long-Term Care/Aged, Blind, Disabled Coverage] is

<http://www.hca.wa.gov/medicaid/forms/Documents/18-005.pdf>.

You may also pick up the application form at an HCS office. A paper application may be returned to PO Box 45826 Olympia WA 98504 or to your local HCS office. To find the right office, call 1-800-422-3263 or use the online tool to find the HCS office in your county <https://www.dshs.wa.gov/altsa/resources>

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## 2. How is COPES eligibility determined?

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To get COPES you must be financially eligible (see Questions 5-7). Also, you must need help, because of a physical or cognitive disability, with certain activities of daily living. Those activities are eating, bathing, transfer (e.g., moving from a bed to a chair), bed mobility (positioning), locomotion (walking or moving around), using the toilet, and medication management.

To qualify for COPES, you must need extensive help with two or more of the listed activities of daily living, or at least some help with three or more. A person who needs supervision because of a cognitive

**THANK YOU!**

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*\*Thank you for attending. Please note that this presentation is for informational purposes only and does not establish an attorney-client relationship.*