

May Someone With Dementia Sign a Will?

Millions of people are affected by dementia, and unfortunately many of them do not have all their estate planning affairs in order before the symptoms start. If you or a loved one has dementia, it may not be too late to sign a will or other documents, but certain criteria must be met to ensure that the signer is mentally competent.

In order for a will to be valid, the person signing must have “testamentary capacity,” which means he or she must understand the implications of what is being signed. Simply because you have a form of mental illness or disease does not mean that you automatically lack the required mental capacity. As long as you have periods of lucidity, you may still be competent to sign a will.

Generally, you are considered mentally competent to sign a will if the following criteria are met:

- You understand the nature and extent of your property, which means you know what you own and how much of it.
- You remember and understand who your relatives and descendants are and are able to articulate who should inherit your property.
- You understand what a will is and how it disposes of property.
- You understand how all these things relate to each other and come together to form a plan.

Family members may contest the will if they are unhappy with the distributions and believe you lacked mental capacity to sign it. If a will is found to be invalid, a prior will may be reinstated or the estate may pass through the state’s intestacy laws (as if no will existed). To prevent a will contest, your attorney should help make it as clear as

possible that the person signing the will is competent. The attorney may have a series of questions to ask you to assess your competency. In addition, the attorney can have the will signing videotaped or arrange for witnesses to speak to your competency.

For more information about preventing a will contest, [click here](#).

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