

## It Is Okay to Ask for Help

There are times, like the holiday season, that we think about and prepare for, for much of the year. However, when they arrive, we may still feel unprepared.

The holidays serve as a reminder of how quickly life happens. It can also feel this way when we get the news that family is counting on us—and not just to bring the rolls to this year's holiday dinner.

Perhaps you found out that your mother's health has deteriorated and she needs somebody to take care of her, or your father has passed and you have been named executor of his estate and are now in charge of winding up his affairs. You might have known this day was coming. However, now that it is here, you may be unsure what to do next and where to turn.

### Caregiving and Estate Planning Duties You Might Be Asked to Perform

Simple acts of kindness can be a source of happiness for the giver and receiver. But things can be far less simple if you have been placed in a role, such as a caretaker or a legal representative, that requires you to put the needs of others before your own for an extended period of time—not just in a physical and emotional sense, but in a legal sense too.

About 37 million people in the United States provide unpaid elder care to a family member.<sup>1</sup> Many of these caretakers work full time and suffer work-related difficulties due to their dual roles but feel they have no choice about their caregiving responsibilities.<sup>2</sup>

As part of these responsibilities, family caregivers often receive some type of formal authority to make decisions for a loved one. For example, they may be appointed to manage a parent's medical and financial affairs through powers of attorney or named as the successor trustee of a parent's trust when the parent can no longer manage their own affairs.

- An *agent* or *attorney-in-fact* under a power of attorney has the legal authority to handle another person's financial or medical matters, depending on which powers are granted under the power of attorney.
- A *trustee* manages a trust for the benefit of the trust's beneficiaries.
- An *executor* or *personal representative* of an estate administers and winds up the deceased's affairs according to their estate plan.
- A *caregiver* assists with the daily activities of an elderly or disabled person.

While attorneys-in-fact, trustees, and executors perform different tasks, they all have what are known as *fiduciary duties*. These duties are legal obligations that require them to act in another person's best interests, such as the beneficiary of a trust or a loved one under their care.

Many family members who step into these roles and accept responsibility have no prior experience serving in this capacity and may be unsure of how to proceed, practically and legally, even if their background suggests they would be a good fit.

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<sup>1</sup> *Celebrating National Family Caregivers Month with BLS Data*, U.S. Bureau of Labor Statistics (Nov., 30, 2023), <https://www.bls.gov/blog/2023/celebrating-national-family-caregivers-month-with-bls-data.htm>.

<sup>2</sup> *Caregiver Statistics: Work and Caregiving*, Family Caregiver Alliance, <https://www.caregiver.org/resource/caregiver-statistics-work-and-caregiving> (last visited Nov. 22, 2024).

You may work as an emergency room nurse, but Mom's dementia presents entirely different challenges (both medically and emotionally) from what you have been exposed to. Your brother may work in finance, but that does not mean he knows how to properly oversee a trust.

If you find yourself in such a position, how can you ensure that you are doing not only what is best for the family but also what is legally required of you? You are willing and able to help, but who will help you?

### **Where You Can Turn for Assistance**

Many of us struggle to find the time for our own personal affairs. Finding extra time to serve as a caregiver or fiduciary, especially during busy periods like the holidays, can be overwhelming.

Working-age Americans put in an average of 45 hours per week of both paid and unpaid labor.<sup>3</sup> The exact number is based on gender and individual circumstances.<sup>4</sup>

Caregiving can take an average of 25 hours per week.<sup>5</sup> Managing or winding up a loved one's affairs can be similarly time-consuming. Court-supervised probate can take months or even years to complete, and trustees can end up administering a trust for decades.

Finding the time is only half the battle. Assuming you can clear your schedule, you may have questions about navigating your newfound role as a healthcare agent, attorney-in-fact, executor, or trustee. Here are some professionals you can turn to for answers:

- An *accountant* can advise you on tax matters related to estate assets and tax returns.
- A *financial advisor* can provide guidance about investing and managing accounts owned by a trust or your loved one's personal accounts.
- A *home healthcare provider* can assist with an older adult's skilled and nonskilled care.
- An *attorney* can explain your fiduciary duties and how to perform certain tasks demanded of you.

### **We Are Here to Help Year-Round**

It may be a family affair, but unfortunately, end-of-life matters do not always bring out the giving spirit in people. Sometimes, they can bring out the worst in families and add fuel to existing conflicts. Lawsuits between heirs are surprisingly common in these situations. If you do not receive the right legal advice, you could end up in a situation that could have been avoided with proper comprehensive planning.

Even if everyone is on the same page and you proceed with the best intentions, you would be remiss not to seek professional guidance. You might ultimately decide that you can proceed on your own. Just know you are not alone, and that help is available if needed. Schedule an appointment with us to learn more about the role you have been asked to fill.

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<sup>3</sup> Chapter 6, *Time in Work and Leisure, Patterns by Gender and Family Structure*, Pew Rsch. Ctr. (Mar. 14, 2013), <https://www.pewresearch.org/social-trends/2013/03/14/chapter-6-time-in-work-and-leisure-patterns-by-gender-and-family-structure>.

<sup>4</sup> *Id.*

<sup>5</sup> Gary D. Luker, *Taking Time to Recognize Caregivers*, National Library of Medicine (Nov. 24, 2024), <https://pubmed.ncbi.nlm.nih.gov/articles/PMC10698583>.