

8 Ways to Avoid Conservatorship

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Hemlock Society of San Diego
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THANK
THANK
THANK

YOU
YOU
YOU



Conservatorship is a
last resort

Judges must prefer

Less restrictive

alternatives

Cal. Prob. Code

1821

Petitioner

“petitioner . . . shall address . .
. **alternatives to**
conservatorship . . . and
reasons why those alternatives
are not available.”

Cal. Prob. Code

1800.3

Judge

“No conservatorship . . . shall be granted . . . unless the court makes an express finding that . . . conservatorship is the **least restrictive alternative** needed for the protection of the conservatee.”

Conservatorship

Person

Estate

Person

healthcare

LRA

Advance Health Care Directive

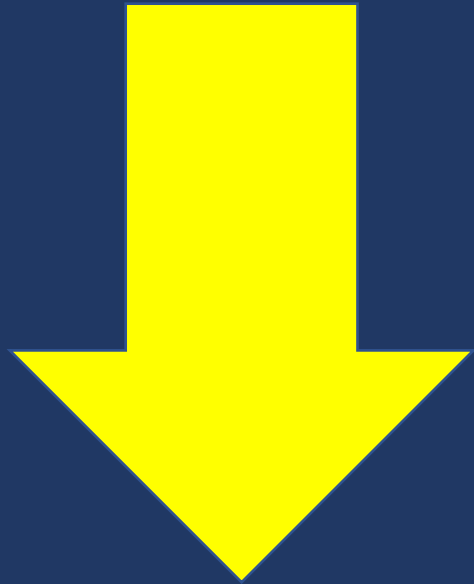
Name _____

Date _____

You have the right to make decisions about your health care. You also have the right to make decisions about your health care if you are not able to make decisions for yourself. This form allows you to make decisions about your health care in advance.

When you complete this form, you are making decisions about your health care in advance. This form is not a contract and it does not guarantee that your wishes will be followed.

If you have capacity



Make own decisions

But you will likely
lose capacity

Advance Health Care Directive

Name _____

Date _____

You have the right to make decisions about your health care. You have the right to decide what happens to your body. You have the right to refuse medical treatment. You have the right to make decisions about your health care. You have the right to make decisions about your health care. You have the right to make decisions about your health care.



Roadmap

2 parts

part 1

Write it



By Kuldeep N. Yadav, Nicole B. Gabler, Elizabeth Cooney, Saida Kent, Jennifer Kim, Nicole Herbst, Adjoa Mante, Scott D. Halpern, and Katherine R. Courtright

DOI: 10.1377/hlthaff.2017.0175
HEALTH AFFAIRS 36,
NO. 7 (2017): 1244-1251
©2017 Project HOPE—
The People-to-People Health
Foundation, Inc.

Approximately One In Three US Adults Completes Any Type Of Advance Directive For End-Of-Life Care

Systematic review
of 150 studies

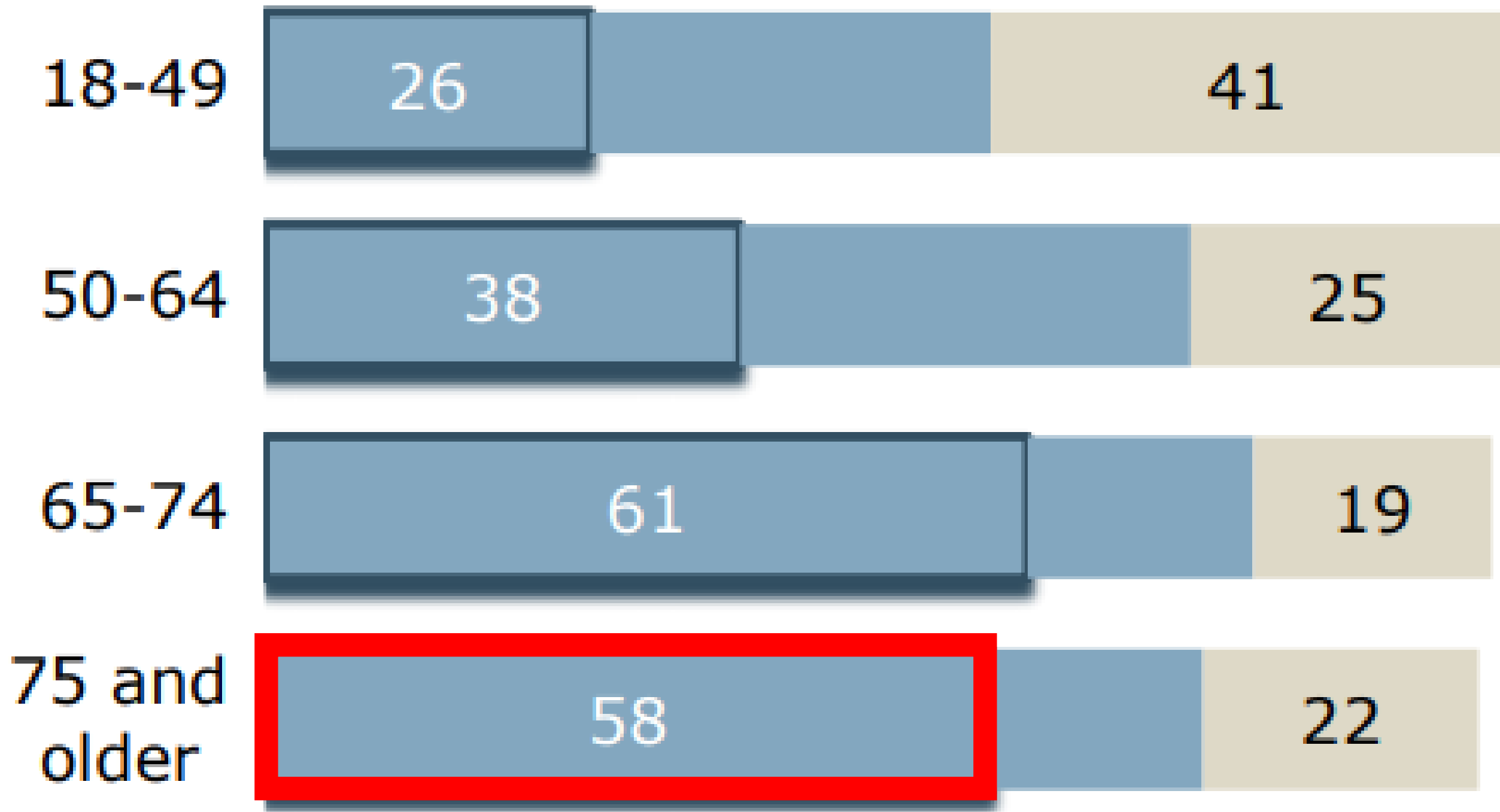
800,000 people

37%

NOV. 21, 2013

Views on End-of-Life Medical Treatments

Growing Minority of Americans Say Doctors Should Do Everything Possible to Keep Patients Alive



write your AD

part 2

Optimize it

write it

2 parts
to AD

Appoint agent

Record wishes

Appointing **agent**

more important

Respond
dynamically

No conservator
if **already** have
SDM

Who?

6

traits

Knows you

Cares about
you

Willing

to serve

Willing to honor
your wishes

Able

to serve

health - live nearby

Good
advocate

Appoint your
agent

Appoint a

backup agent

Other

part AD

Record
wishes

FKA

“living will”

Record treatment

You want

You do not want

Lots of paper
forms, e-forms
& apps

Some are more

treatment

focused

[illegible]

Others are more
goal focused

FIVE WISHES[®]

MY WISH FOR:

The Person I Want to Make Care Decisions for Me When I Am Not Able

The Kind of Medical Treatment I Want or Don't Want

How Comfortable I Want to Be

How I Want People to Treat Me

What I Want My Last Moments to Be Like

Part 3: My Hopes and Wishes (*Optional*)

I want my loved ones to know my following thoughts and feelings:

The things that make life most worth living to me are:

My beliefs about when life would be no longer worth living:

Advantage

Hear from you

yourself

Best DM for you

is **you**

Purpose

Goal
concordant
care

Get Tx you want

Avoid Tx you

don't want

Step 1

Appoint agent

& alternate

Record values
& preferences

Completed AD



STOP

Step 2

Make it

legal

Witnessed
or notarized





AMENDED IN SENATE APRIL 3, 2020

SENATE BILL

No. 1322

Introduced by Senator Rubio

February 21, 2020



STOP

Step 3



Available

Able

Willing



Your Guide to Being a Health Care Proxy

How to be an advocate for someone you care about, as their proxy — and help them have a say in their health care.



Institute for
Healthcare
Improvement

the **conversation** project



STOP

Step 4

Make it

findable

Not

found

Complete

$\neq$

Have

Pt have

$\neq$

HCP have

76% of physicians whose
patients **have** ADs do not
know they **exist**

Make &
distribute
copies

Agent

Alternate agent

EHR



Dr. Shirley N. Weber

California Secretary of State

[Home](#) ▶ [Registries](#) ▶

Advance Health Care Directive Registry



STOP

Step 5



Videos help resolve
disputes over AD
validity & meaning

Validity

Sumner Redstone



VIACOMCBS

 CBS

 SHOWTIME



nickelodeon



 COMEDY
CENTRAL

BET★

 CBS
ALL ACCESS

PLUTO TV



5



 telefe

 colors

September 3

AD names agent
“companion”



**Manuela
Herzer**

October 16

AD names

new agent





**No capacity
to execute
new AD**





LOS ANGELES SUPERIOR COURT
STANLEY MOSK COURTHOUSE

A close-up portrait of an elderly man with a full, grey beard and mustache. He is wearing thin-rimmed glasses and looking directly at the camera with a slight smile. He is wearing a light blue collared shirt under a grey sweater. The background is a soft, out-of-focus light blue.

Clinical Manual of
**Geriatric
Psychiatry**

James E. Spar, M.D.
Asenath La Rue, Ph.D.



Someone claims
patient **lacked**
capacity to
complete the AD

Videos

help prove

AD **validity**

Videos also

help prove

AD **meaning**

What did the
patient want?

Did she want it
under **these**
circumstances?

Completed

Signed

Witnessed/notarized

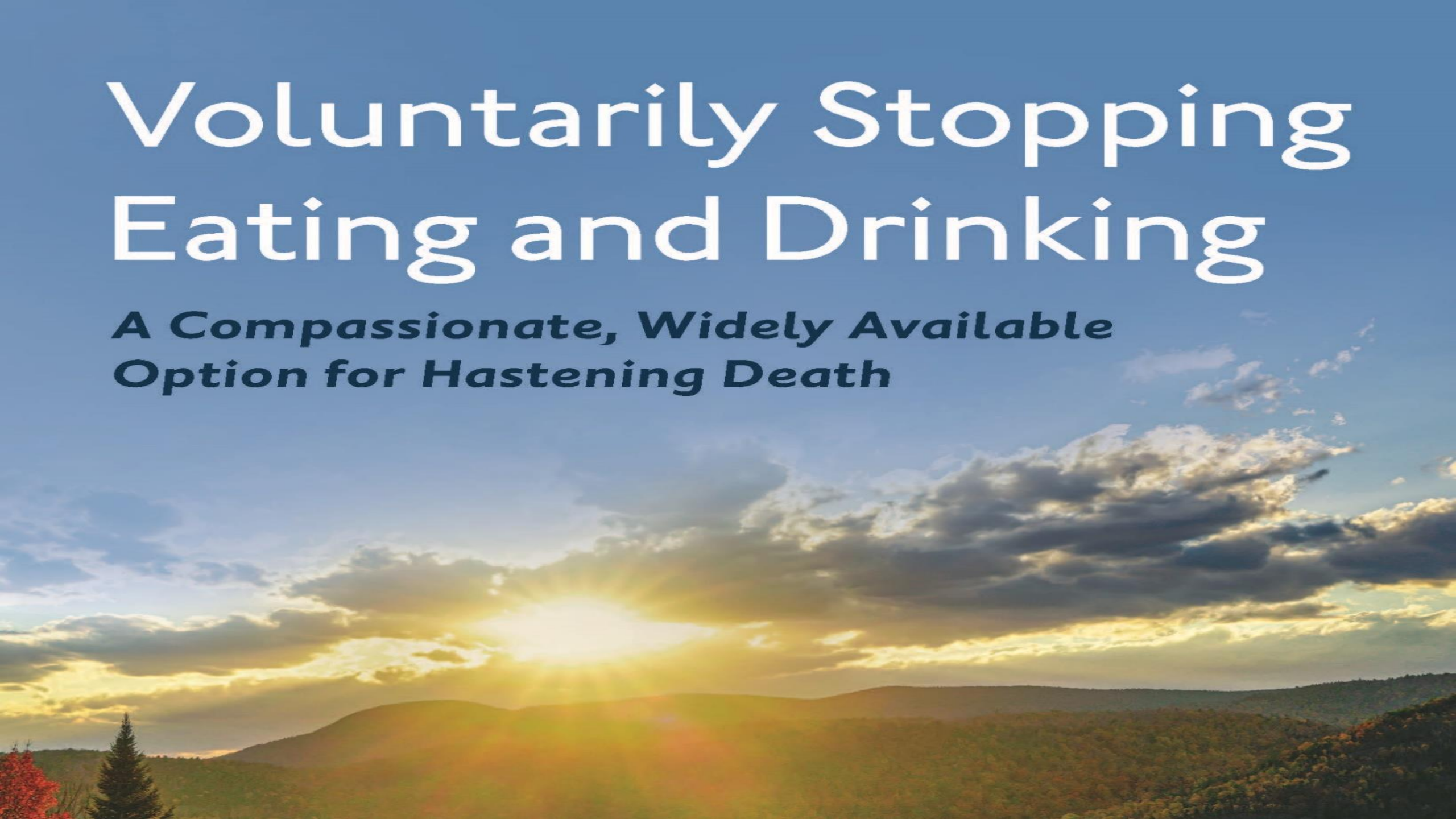
Shared copies

Video

Step 6

Voluntarily Stopping Eating and Drinking

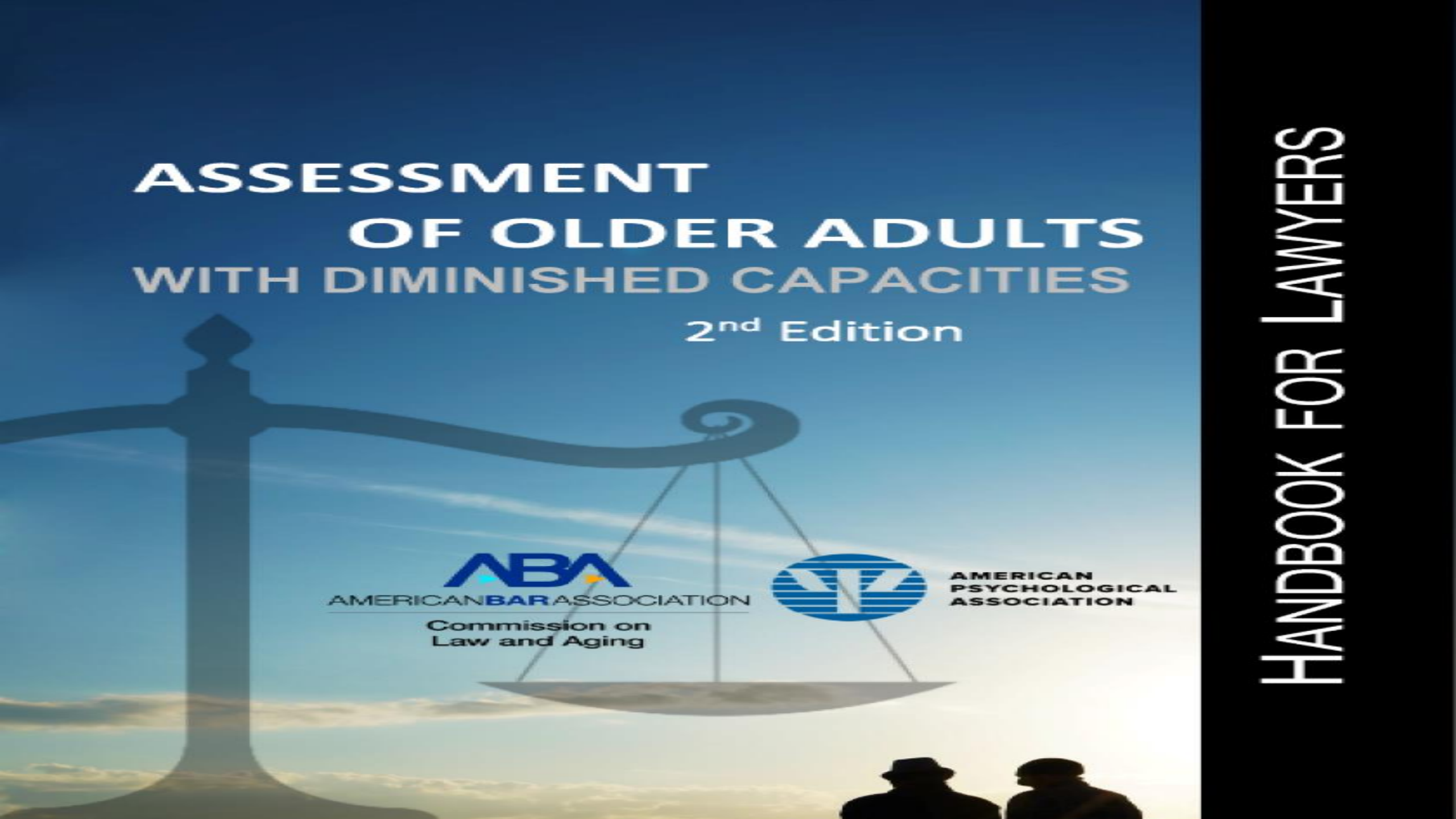
***A Compassionate, Widely Available
Option for Hastening Death***





ASSESSMENT OF OLDER ADULTS WITH DIMINISHED CAPACITIES

2nd Edition



A**B****A**
AMERICAN **BAR** ASSOCIATION
Commission on
Law and Aging



AMERICAN
PSYCHOLOGICAL
ASSOCIATION

HANDBOOK FOR LAWYERS



STOP

Step

7

Review

6 D's

Death of family / friend

Divorce

New **Diagnosis**

Significant **Decline** health

New **Decade**

Change of **domicile**

7th D

Desperado

Not agent

“I want ____ to
take no part...”



STOP

Step 8

POLST

Supplements AD

Does not replace

Advance directive

POLST

who?

Those expected to
die in **next year**

Terminal illness

Advanced chronic
progressive illness

Frailty

Advantage
over AD

Transportable
order set

Immediately
actionable

No need to
“translate”
into orders

Conclusion

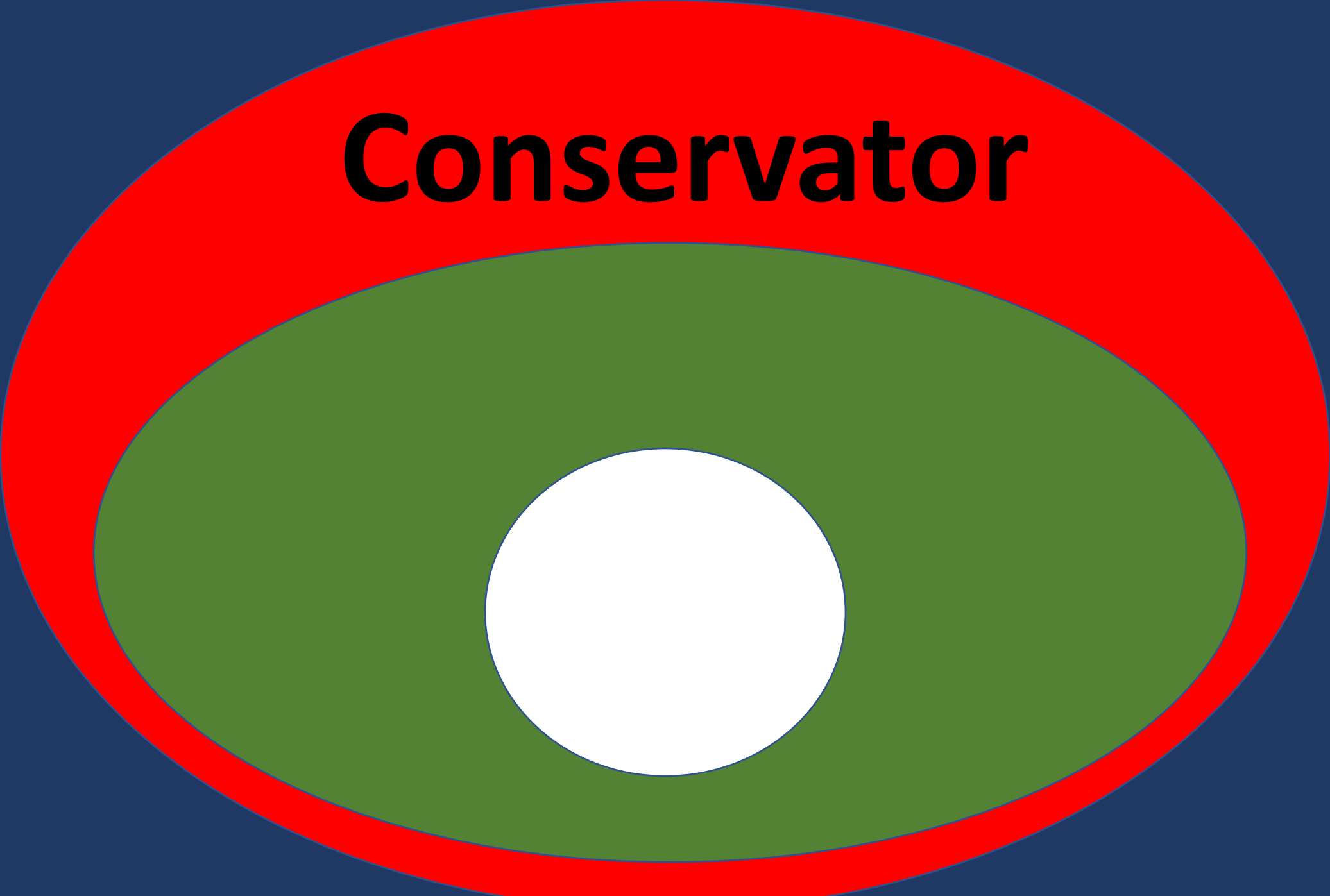


You

The logo consists of a large green circle with a smaller white circle centered inside it. The text "HC agent" is written in a bold, black, sans-serif font across the upper portion of the green circle.

HC agent

Conservator

The image features a dark blue background. Centered on this background is a large red oval. Inside the red oval is a green oval, and inside the green oval is a white circle. The word "Conservator" is written in a bold, black, sans-serif font, positioned in the upper portion of the red oval.

BUT

~~Plan A~~

Plan B





Ideally, ADs

help **avoid**

conservatorship

Value **even if**
conservator
appointed

who

“If a conservator of my
person needs to be
appointed . . . **I nominate
the agent designated in
this form.”**

How

Cal. Prob.

Code 2355

“conservator shall make
health care decisions . . .
in accordance with the
conservatee’s . . . health
care instructions”

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