

Legal Concerns for

Multi-generational Households



Most sources define multi-generational families as those consisting of more than two generations living under the same roof. Many researchers also include households with a grandparent and at least one other generation.

Living in a multi-generational household can have advantages. Young adults may live with their parents while looking for work. Grandparents may move in to provide support by taking care of grandchildren. Elder parents move in with their adult children for health, mobility or financial support. While shared resources are a significant plus, living together also creates different responsibilities and risks for everyone.

This Guidebook gives a high level perspective of some of the legal issues that may come with living in a multi-generational household. From remodeling a basement to creating advance directives, this guidebook can help you proactively prepare for different situations you may face.

If you have additional questions, ARAG® can help. If you have ideas on how to improve this Guidebook, please share them with us at Service@ARAGlegal.com.

If you're not an ARAG member, please feel free to review this information and contact us to learn how ARAG can offer you affordable legal resources and support.

Sincerely,

ARAG Customer Care Team

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Glossary

Child Custodial Authority Consent Form. This form grants temporary custodial authority over a child to a third person for a limited period of time.

Durable Power of Attorney. Written authorization to act on someone else's behalf in financial or property matters.

Fiduciary. A person under obligation to act in another's interest to the exclusion of the fiduciary's own interest.

Health Care Power of Attorney. Written instructions that specify health decisions and actions to be taken in the event that a person is no longer able to make decisions due to illness or incapacity.

Lien Release. A waiver executed by a contractor or subcontractor who performed work on a property indicating he/she has been paid for work performed or materials supplied thereby releasing any interest the contractor has in the owner's property.

Living Will. A written authorization document stating an individual's preferences for healthcare and end-of-life care if severely disabled or suffering terminal illness.

Medical Treatment Authorization for Minors. This document is used to authorize medical treatment for a child in the event a parent is not present. This document is necessary because children cannot receive medical treatment without parental consent unless it is a matter of life and death.

Pre-need Arrangement. Written instruction regarding goods or services that are paid for in advance of need. Generally refers to goods or services that are needed for final disposition of bodily remains.

Trustee. Someone appointed to hold onto property for the benefit of another.

Waiver of Lien. A waiver signed by a subcontractor or supplier stating it has been paid by the general contractor and therefore waives any future rights to a lien against the property.

Building a Bigger Space

While sharing living space may seem like a great idea, it may require adjustments to the living space either to accommodate privacy or mobility issues. Keep the following in mind when it comes to remodeling and zoning.

Expanding your home is a major disruption to your financial and living arrangement and the decision needs to be entered into with clear understandings of the likely duration of the stay and the mutual obligations of the parties. Ask questions such as:

- Will the parties moving in be bearing any of the costs to build?
- Will they be contributing to the increased living costs?
- Will they make independent choices within the home or only on consultation with the homeowner?
- Will the party that is moving in be placed on the deed and how will that affect the current tax treatment of the property? For example, if you add a child's name to the homeowner's deed, you could reduce your homestead exemption, or expose the property to the creditors of the other party.

Remodeling. Before you look for a contractor, take the time to carefully consider what your project is, what you want the contractor to do, and determine your budget. By investing time upfront to think about the details of your project, you will more likely:

- Receive more accurate bids that can be compared easily
- Hire a contractor with the applicable skills for your project
- Save time (and money) spent with the contractor planning the project
- Stay within your budget
- Minimize your and your family's inconvenience while remodeling

Try to learn a little about the type of work you want done so you understand what the contractor will be doing and what options are available. This will also help you understand the scope of the project and how it will affect your current living situation. Find out about the process, the best materials to use, the typical costs and more.

When homeowners are unsure about the scope of the project, contractors tend to bid the work higher in order to cover contingencies. While you don't need to know all of the details before you start discussions with potential contractors, knowing more means you are more likely to get exactly what you want and save time and money.

Zoning. Local zoning codes determine what you can build on your property and how the space can be used. If you are planning an addition, the code will determine how high you can go, how close you can get to your neighbors, how much of the lot can be covered by buildings and/or how much living space is allowed.

Additionally, your property is likely already zoned for a particular intention such as a single family home or a multifamily building. While some zoning problems can be addressed by filing specific paperwork, others require a hearing and others cannot be fixed at all.

Visit your local planning and zoning office before you start your project to be sure you know the current zoning for your property and that what you want to do with your property can be built legally.

Next steps. After you decide what you want to do, find a reputable contractor to work with. Whether you search the internet or ask friends and family for references, be sure to check references and get written estimates before proceeding. Before you make your decision and sign a contract, be sure you:

- Take time to assess the contractor, his/her experience, and how well you communicate with each other.
- Review past projects and talk to other customers.
- Get a written estimate that thoroughly and accurately describes the project
- Ask for and file copies of insurance and any applicable licensing requirements that may be required in your area.
- Read the contract and make sure you agree with everything as written.

If problems come up during or after the job, notify the contractor and try to resolve them. Frequently, effective communication will resolve most difficulties. If problems persist, however, document your side of the dispute and send a demand letter to the contractor indicating what the problem is and the solution that you are looking for. Demand letters should be used when other attempts to work out the issue have been unsuccessful and you want to make your concern formal.

Where to Complain. If you and your contractor cannot resolve the situation together, contact the following organizations for further information and help:

- State and local consumer protection offices.
 - www.consumeraction.gov
 - www.usa.gov/Citizen/Topics/Consumer_Safety.shtml
- State or local Builders Association and/or Remodelers Council
- Local Better Business Bureau

When to Seek Legal Assistance from an Attorney:

- You want help creating legal documents such as a lien release or waiver of lien.
- Work is not going as scheduled and the contractor is unwilling to discuss options, or the options offered are not reasonable.
- Work is shabby or unprofessional and the contractor is unwilling to repair or offer options.

Protecting your Privacy While Contractors are in Your Home

Before contractors work on your home, you may want to take a few precautions to make sure your private information stays private.

- **Move private documents and other valuables to a desk drawer or locked cabinet.** Anyone can open kitchen cabinets and other built-in structures. If they open a drawer, make sure they are not finding important documents you don't want them to see.
- **Don't leave mail out.** Mail is often left on a table or in an open area where anyone can see it. It also tells your name and other information such as what credit you have, what associations you belong to and if you are in legal disputes.
- **Take diplomas and pictures off the walls.** This ensures that others do not know your profession or form biases on what your alma mater or family activities reveal about you.

Non-Parents Providing Childcare

Whether grandparents, aunts, uncles or older siblings are providing childcare, consider getting these forms so everyone is prepared in case of a medical or dental emergency.

Child Custodial Authority Consent Form. This form grants temporary custodial authority over a child to a third person for a limited period of time. It will give the temporary custodian decision making authority in several situations. For example:

- If there is an emergency involving the child and the parents either cannot be reached or the situation is urgent enough that contacting them is impractical, the temporary custodian will be able to authorize medical treatment.
- The temporary custodian will have easy access to the child's pertinent medical information, including doctor contact information, preferred hospital and any allergies or conditions the child may have.
- This form can help detail how any costs relating to the child will be paid. Documenting this information can help resolve later disputes that may arise.
- This form assures that the temporary custodian has knowledge of the child's medical conditions and is aware of those responsibilities while the child is in his or her care.

Medical Treatment Authorization for Minors. This document is used to authorize medical treatment for a child in the event a parent is not present. This document is necessary because children cannot receive medical treatment without parental consent unless it is a matter of life and death.

Consider using this document if grandparents or other adults will have responsibility for a child, either for an extended period of time or on a regular basis. It is a good idea to have a copy of this document so it is easily accessible if the child should ever need medical attention while in the care of another adult. The document requires that a reasonable attempt be made to contact a parent before treatment is given. If a parent cannot be contacted, the document gives medical personnel permission to act.



Eldercare

Taking care of a loved one can be a rewarding and often challenging experience. As a caregiver, you are facing a difficult task with many decisions to make – from medical issues and housing to financial and legal concerns. You may even need to consider death preparations. Having the following legal documents in place can minimize expenses, decrease confusion and reduce stress for everyone involved.

A durable power of attorney is a written document in which a person, called the principal, appoints another person, called the agent, to act on behalf of him or her. It specifically lists financial and personal matters for which the agent has power.

Your loved one can make the durable power of attorney effective immediately (i.e., as soon as it is signed and witnessed and/or notarized) or, if your state law permits, upon incapacity (i.e., when your loved one is unable to handle financial and personal affairs). If it is effective as of incapacity, parties dealing with the agent may require proof of incapacity, which could cause a delay in transactions. Whenever acting under the durable power of attorney, be sure to consult with the principal if possible, keep complete records of any transactions and act only in the interest of the principal and never in your own interest.

A health care power of attorney is similar to a durable power of attorney, but is specific to health care decisions. Your loved one can give an agent authority to make health care decisions on his or her behalf. Your loved one can declare a primary agent and an alternate agent, who can act if the primary agent is unavailable, unwilling or unable.

An advance directive, or **living will**, is a document your loved one can use to share his or her wishes about life-prolonging medical treatments. A living will can declare whether your loved one would want certain health care procedures provided, withheld or withdrawn if:

- It is determined by an attending physician that your loved one lacks the capacity to make and communicate that decision him/herself; and :
- The attending physician determines, and another physician confirms, that your loved one has a terminal condition (which includes a condition of permanent unconsciousness or other qualifying condition under your state's law).

Regardless of what is stated in a living will, your loved one may make healthcare decisions as long as he or she is capable of making and communicating those decisions. Your loved one can revoke an advance directive at any time and in any manner that effectively communicates the intent to revoke it.

HIPAA (Health Insurance Portability and Accountability Act of 1996) is a federal statute that protects an individual's medical information. Your loved one may consider creating a **HIPAA authorization**, which allows him or her to designate an agent, called a personal representative, to have access to protected health information and medical records. This is important when your loved one becomes incapable of accessing the information on his or her own. Your loved one may also wish to designate someone out of convenience, for example allowing a spouse to look at medical records to help with decision-making.

Estate Planning. If adequate arrangements have not been made in advance, and the financial affairs for your loved one need to be managed during their incapacity, then guardianship or conservatorship proceedings could be necessary. Be aware that these proceedings may be costly and time consuming, and may result in appointments of persons as guardians or conservators based on family rank rather than ability or availability.

If you have acted as agent for your loved one (under a Durable Power of Attorney, or as a co-signatory to an account) your authority to act ends at your loved one's death, in almost all instances. Exceptions include:

- You and your loved one are co-owners of an account or asset or joint owners with survivorship rights.
- The agent is listed as the "pay on death" or "transfer on death" beneficiary of an asset. Then the agent, as the succeeding owner, could continue to access and use the account or asset.
- The agent is a Co-Trustee or successor Trustee of a Trust (revocable or irrevocable) set up by the deceased family member.
- In certain states, an agent named in certain planning documents (such as Health Care Powers of Attorney or Declaration for Disposition of Bodily Remains) may carry out a specific directive relating to the disposition of bodily remains.

Even though your formal authority has ended, there likely will be ongoing financial matters (including debt handling) and property to be maintained until formal fiduciaries (i.e., executors, personal representatives, or trustees) are empowered to act. Here are some possible scenarios and what they may mean to you:

End of Life Health Care. If your loved one has not declared end-of-life health care preferences or has not appointed an agent to make or carry out those decisions, then the laws of the state where your loved one is residing will direct who is eligible to make those decisions and the extent of their decision-making authority.

Funeral Arrangements and Payment. If your loved one did not prepare any instructions or pre-need arrangements, then the law of each state assigns responsibility among family members as to who makes decisions regarding the disposition of bodily remains, funeral arrangements and payment. Often these decisions need to be made quickly and without any real sense of costs and available resources.

Further, the ultimate financial responsibility for the costs of bodily disposition and any funeral arrangements will fall on the person who makes those arrangements with the service providers. This is typically an expense that can be charged to and paid out of the estate, if there is an estate opened and if there are enough assets. Look to the laws of the state where the expenses are incurred since the states make cost responsibility assignments.



The Boomerang Generation

Sometimes a multi-generational household is formed when young adults who have lived on their own return to live with their parents. Sons and daughters in the “boomerang generation” often return due to unemployment or the high cost of living alone –and bring with them the resulting financial and legal concerns.

Helping out financially may include allowing them to use your credit card or being asked to co-sign a loan, both of which leave you with the financial risk to repay that debt, or face collection or damage to a credit rating. Before you cosign, consider the following precautions provided by the Federal Trade Commission:

- Be sure you can afford to pay the loan. If you’re asked to pay and can’t, you could be sued or your credit rating could be damaged.
- Even if you’re not asked to repay the debt, your liability for the loan may keep you from getting other credit because creditors will consider the cosigned loan as one of your obligations.
- Before you pledge property to secure the loan, such as your car or furniture, make sure you understand that, if the borrower defaults, you could lose these items.
- Ask the lender to calculate the amount of money you might owe. You also may be able to negotiate the specific terms of your obligation. For example, you may want to limit your liability to the principal on the loan, and not include late charges, court costs, or attorneys’ fees. In this case, ask the lender to include a statement in the contract similar to: “The cosigner will be responsible only for the principal balance on this loan at the time of default.”

- Ask the lender to agree, in writing, to notify you if the borrower misses a payment. That will give you time to deal with the problem or make back payments without having to repay the entire amount immediately.
- Make sure you get copies of all important papers, such as the loan contract, the Truth-in-Lending Disclosure Statement and warranties, if you're cosigning for a purchase. You may need these documents if there's a dispute between the borrower and the seller. The lender is not required to give you these papers; you may have to get copies from the borrower.
- Check your state law for additional cosigner rights.

Covering the medical expenses of uninsured family members

The Affordable Care Act is the name given to the comprehensive health care reform law enacted on March 23, 2010. It allows parents to add adult children up to age 26 to the parents' employers' medical plans and gives options to retirees, including ways to save money on preventative care and prescription drugs.

You can find insurance options for your situation by visiting the Find Insurance tab at healthcare.gov. By answering a few simple questions, you'll be given different options that are specific to your situation.



Let us help you

If you need additional help or guidance, ARAG is here for you. Simply contact a Customer Care Specialist who can help you understand the benefits available to you. For more information:



Visit the Education Center at:
ARAGLegalCenter.com, call
1-800-247-4184 or email
Service@ARAGlegal.com







Preparing to Meet Your Attorney

If you decide to consult an attorney about your legal matters, we suggest you complete the following worksheet prior to your meeting. By preparing this information ahead of time, you have the opportunity to clearly think through your needs and the attorney will have the necessary information to provide you with the highest level of legal service.

Start by thinking about your current situation, the communications you have received and any history you have about the legal matter. Summarize your legal needs in a few sentences. Use this as a starting point when you make your first phone call to an attorney.

List the names, dates and pertinent details about your legal matter so you will be ready to discuss it with your attorney either over the phone or during an in-office visit.

List and attach any documents or background information you think will be helpful in the first meeting with an attorney.

Resources For More Information

The following were used as resources in developing this guidebook and provide additional information.

Federal Trade Commission: www.FTC.gov

National Association of the Remodeling Industry: www.nari.org

National Association of Home Builders: www.nahb.com

Checklist

Remodeling

Before you sign off and make the final payment, use this checklist to make sure the job is complete.

- All work meets the standards spelled out in the contract.
- You have written warranties for materials and workmanship.
- You have proof that all subcontractors and suppliers have been paid (Final Release of Lien).
- The job site has been cleaned up and cleared of excess materials, tools and equipment.
- All permits and related inspections have been performed as required.
- You have inspected and approved the completed work.

Childcare

If you are in the role of caregiver, you may want to be sure you have these important papers in one location so you find them when you need them.

Documents Needed

- Birth certificates, death certificates (if your grandchild's parent is deceased),
- Marriage records or divorce decrees for their parents
- Social Security cards (or at least the numbers) for the children
- Medical and dental records
- Power of Attorney, custody orders, guardianship orders, adoption decrees or other legal papers
- Consent forms signed by parents for medical care and education
- School papers, such as report cards, evaluations, registration, etc.
- Proof of your grandchild's income and assets (child support payments, trust fund, etc.)
- Proof of your income and assets (You'll need these if you apply for public benefits)
- Citizenship papers for you or for your grandchildren (if naturalized)
- Military papers for you or their parents

Eldercare

Checklist for maintaining legal documents.

- Review all documents periodically to make sure they still reflect current law, current thinking, and the appropriate agent designation.
- Discuss preferences with your loved one and make sure you know your responsibilities and what he or she wants to have happen.
- Review financial records periodically and make sure the named agent can access them when necessary.
- Review beneficiaries on life insurance, retirement plans and jointly-held property. Make sure they are accurate, or if necessary, directed to a trust for distribution.
- Periodically review the situations of those named in the Will and/or trust. If someone receives Medicaid, seek professional advice on how the gift may affect eligibility. Also, when deciding how long the gift may be held in trust before given, consider the burden on the trustee and the impact of additional costs to manage the trust.

This publication is provided as educational material for members of ARAG legal plans. While every effort has been made to ensure the accuracy of this publication, it is not intended as legal advice as individual situations will differ and should be discussed with an expert and/or lawyer. If you have questions concerning coverage, please refer to your ARAG legal plan.

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