



# **Hidden in Plain Sight: Dementia and its Impact on Lawyers and Judges**

**February 15, 2017**

**10:00 am – 11:15 am Arizona**

**State Bar McAuliffe CLE Center  
Phoenix, AZ**

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Hidden in Plain Sight: Dementia and its Impact on Lawyers and Judges  
Live in person and national Webcast

February 15, 2017  
10:00 am -11:15 am  
State Bar of Arizona CLE Center

- 10:00 - 10:05      **Welcome and Introduction**  
Chief Justice Scott Bales, Arizona Supreme Court  
Hon. Louraine Arkfeld, Tempe Municipal Court (ret.)
- 10:05 – 10:30      **Recognizing Symptoms of Dementia and Steps to Follow**  
Jan Dougherty RN, MS, FAAN, Banner Alzheimer’s Institute
- 10:30 – 11:00      **General Duty/Opportunities for Lawyers and Judges**  
Moderator: Hon. Louraine Arkfeld, Panel: Jan Dougherty, Banner  
Alzheimer’s Institute, Hon. Joseph Kreamer, Maricopa County Superior  
Court, Lisa Panahi, State Bar of Arizona
- 11:00 – 11:05      **Resources for Patients, Families and Caregivers**  
Hon. Louraine Arkfeld
- 11:05-11:15      **Q & A and Wrap up**  
Hon. Louraine Arkfeld

**HON. LOURAINÉ ARKFELD** - Judge Arkfeld served as the Judicial Member-at-Large of the ABA's Board of Governors and as the chair of the Board's Program, Evaluation and Planning Committee. She just completed her term as Chair of the ABA Senior Lawyers Division and on the Council on the ABA International Law Section and is a Past Chair of the Judicial Division of the ABA and the ABA Commission on the American Jury Project. She serves on the Judicial Advisory Committee to the Standing Committee on Ethics and Professional Responsibility. She also served on the ABA Presidential Task Force on Human Trafficking and the ABA Center for Human Rights. She previously chaired the ABA Working Group on the Rule of Law and an Independent Judiciary and served on the ABA's Committee on the Research of the Future of the Legal Profession.

Judge Arkfeld also completed service on the Arizona Judicial Council and as Chair of the Serving Orders of Protection Task Force for the O'Connor House. She chaired the Court Leadership Institute of Arizona and continues to teach in its Court Executive Program. She also served on the Arizona Supreme Court Commission on Technology, the Arizona Commission on Judicial Conduct and the Trial Court Leadership Council for the National Center for State Courts.

In her community she is the Immediate Past President of the Board of Directors of the Tempe Community Council, Secretary of the Tempe Community Foundation Board, a member of the City of Tempe's Dementia Friendly Community Action Team and participates in Arizona State University's Women & Philanthropy program.

**JUSTICE SCOTT BALES** – Justice Bales joined the Arizona Supreme Court in 2005 and became Chief Justice on July 1, 2014. He regularly teaches courses as an adjunct professor at the law schools at Arizona State University and the University of Arizona. He is also a member the ABA's Law School Accreditation Committee, the Executive Committee of the ABA's Appellate Judges Conference, and the Council of the American Law Institute.

Before his appointment to the Court, he had practiced law in Arizona for nearly 20 years as both a private and public lawyer. From 2001-2005, he worked at Lewis and Roca LLP, where his practice focused on appellate and complex litigation. As Arizona's Solicitor General from 1999-2001, he handled major appeals in state and federal court, oversaw the enforcement of Arizona election laws, and supervised the preparation of legal opinions on issues concerning state government. Justice Bales also was a Deputy Assistant Attorney General for the U.S. Department of Justice's Office of Policy Development, a federal prosecutor in the United States Attorney's Office in Phoenix, and a Special Investigative Counsel for the Justice Department's Inspector General. He clerked for Justice Sandra Day O'Connor on the U.S. Supreme Court and Judge Joseph T. Sneed III on the Ninth Circuit Court of Appeals. After graduating from Michigan State University with degrees in history and economics, he received a master's degree in economics and his law degree from Harvard.

**JAN DOUGHERTY RN, MS, FAAN** - Jan Dougherty is Family and Community Services Director at Banner Alzheimer's Institute in Phoenix, Arizona where she is responsible for setting a new standard of care for dementia patients and their families through development and implementation of innovative programs including early stage programming, arts and dementia,

and an array of caregiver education programs. She directs the Native American Outreach Program raising awareness about dementia, evaluating culturally sensitive cognitive assessment, bringing novel brain health programs, and identifying health disparities among Southwest tribes. Obtaining grant funding of over \$3 million, Jan has pioneered unique dementia programs being used in Arizona, nationally and internationally. These programs include Dementia Care Paths and Best Practices for Dementia Care Management; Hospice Care for Dementia; and Palliative Care for Advanced Dementia. These innovations have resulted in major changes in care practices, particularly for persons with advanced dementia. Jan completed her BSN from Valparaiso University and her MS in Gerontological Nursing from the University of Arizona.

**HON. JOSEPH C. KREAMER** - Honorable Joseph Kreamer was appointed to the Maricopa County Superior Court Bench in 2007 and is currently the Criminal Department's Associate Presiding Judge. His first assignment was to a civil calendar at the Southeast Courthouse in Mesa. Judge Kreamer grew up in Tucson and attended the University of Arizona for both undergraduate and law school. Prior to joining the Bench, he was a civil trial lawyer at Snell & Wilmer in Phoenix for seven years, then a partner in the firm of Hopkins & Kreamer for ten where his practice concentrated on personal injury and commercial litigation. Judge Kreamer has presided over several high-profile cases with extensive media coverage. In 2012, he presided over State v. Tammi Smith, which was televised live nationally on In Session TV (now known as HLN). That case was followed by the trial of Ms. Smith's co-defendant Elizabeth Johnson, which also received extensive national and local television coverage. Judge Kreamer recently completed the second and third retrials of Johnathan Doody, charged with the 1991 murders of nine persons at a Buddhist Temple outside Phoenix. That case remains the largest mass-murder in Arizona history.

**LISA PANAH**I - Lisa M. Panahi is Senior Ethics Counsel for the State Bar of Arizona, where she advises lawyers on compliance with the Rules of Professional Conduct, serves as the ethics consultant for the State Bar, and regularly presents at continuing-legal-education seminars. Lisa is currently a member of the Arizona Supreme Court's Attorney Regulation Advisory Committee, advisor to the State Bar's Committees on the Rules of Professional Conduct and Fee Arbitration, and a member of the American Bar Association's Center for Professional Responsibility. She received both her undergraduate degree and law degree from Arizona State University. During law school, she served as an extern for the Honorable(Ret.) Lawrence O. Anderson (United States District Court for the District of Arizona), and immediately following law school, worked as a public defender for the City of Tucson. Prior to working for the State Bar, Lisa was in private practice as a partner with Heurlin Sherlock Panahi P.C., and focused primarily in business and real estate transactions and volunteer mediation.

# Recognizing symptoms of dementia and steps to follow

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JAN DOUGHERTY, MS, RN, FAAN  
SPECIAL PROJECTS CONSULTANT  
BANNER ALZHEIMER'S INSTITUTE  
PHOENIX, ARIZONA



# Objectives

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Overview the demographics of dementia

Contrast “senior moments” to “something more”

Recognize the most common symptoms of Alzheimer’s disease

Assist colleagues (and their families) to seek diagnosis, treatment and ongoing care

Describe steps to take for education, support and connection

# Impact of Alzheimer's disease/Dementia

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5.4 million Americans are currently affected

- About 10% of people 65+ and nearly 50% of those 85+ are affected
  - Age is the greatest risk factor for developing Alzheimer's
- ~50% will never receive a diagnosis

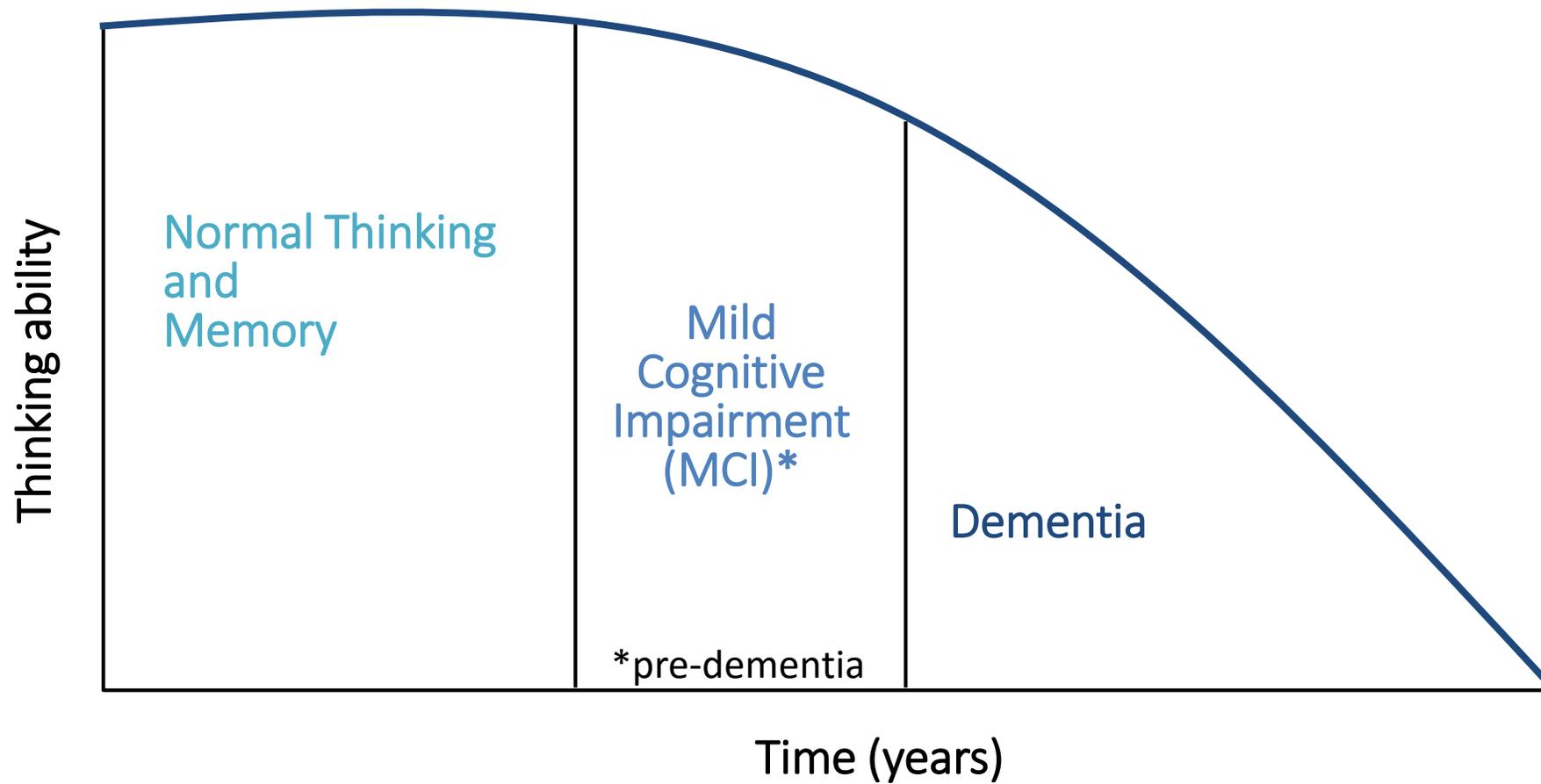
By 2050, 16 million Americans may be affected

Now a leading cause of death among older Americans

7/10 persons with dementia live at home with the help of approximately 44 million family/friends

Average lifetime cost per individual is \$175,000

Caregivers experience high levels of stress, grief, loss, and depression



Senior Moments	Something more
Slower thinking with occasional mistakes	Slower thinking with added confusion leading to mistakes/frustration/withdrawal
Delayed recall in memory for names, words, places, etc. <ul style="list-style-type: none"> <li>➤ “Tip of the tongue”</li> <li>➤ “Talking around the word”</li> <li>➤ Typically find the word/object we forgot</li> </ul>	Short-term memory loss results in: <ul style="list-style-type: none"> <li>➤ Names/words don’t come back</li> <li>➤ Repetitiveness &amp; increased forgetfulness</li> <li>➤ Losing/misplacing things</li> </ul>
Decreased ability to multi-task and more distractible	Difficulty with tasks – following directions and staying focused
Takes a bit longer to learn new information but there is continued ability to learn	Inability to learn new information despite multiple attempts, directions, etc.
Maintains &/or creates new interests and hobbies	Loss of initiative and interest in former activities and hobbies
Become “more like yourself”	May experience a change in personality or mood (e.g. withdrawn, irritable, anxious)
Coping strategies around memory issues still work	Limited coping strategies lead to frustration, giving up
Manage day to day with little assistance	Need increased assistance to manage everyday life

# When it's something more

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Dementia is a syndrome/ (umbrella) term, not a diagnosis

- Like saying “cancer”
- Does not say what lies ahead or how to treat

Always characterized by progressive loss of thinking and memory

Results in inability to function on a daily basis

Almost always results in changes in emotions and personality

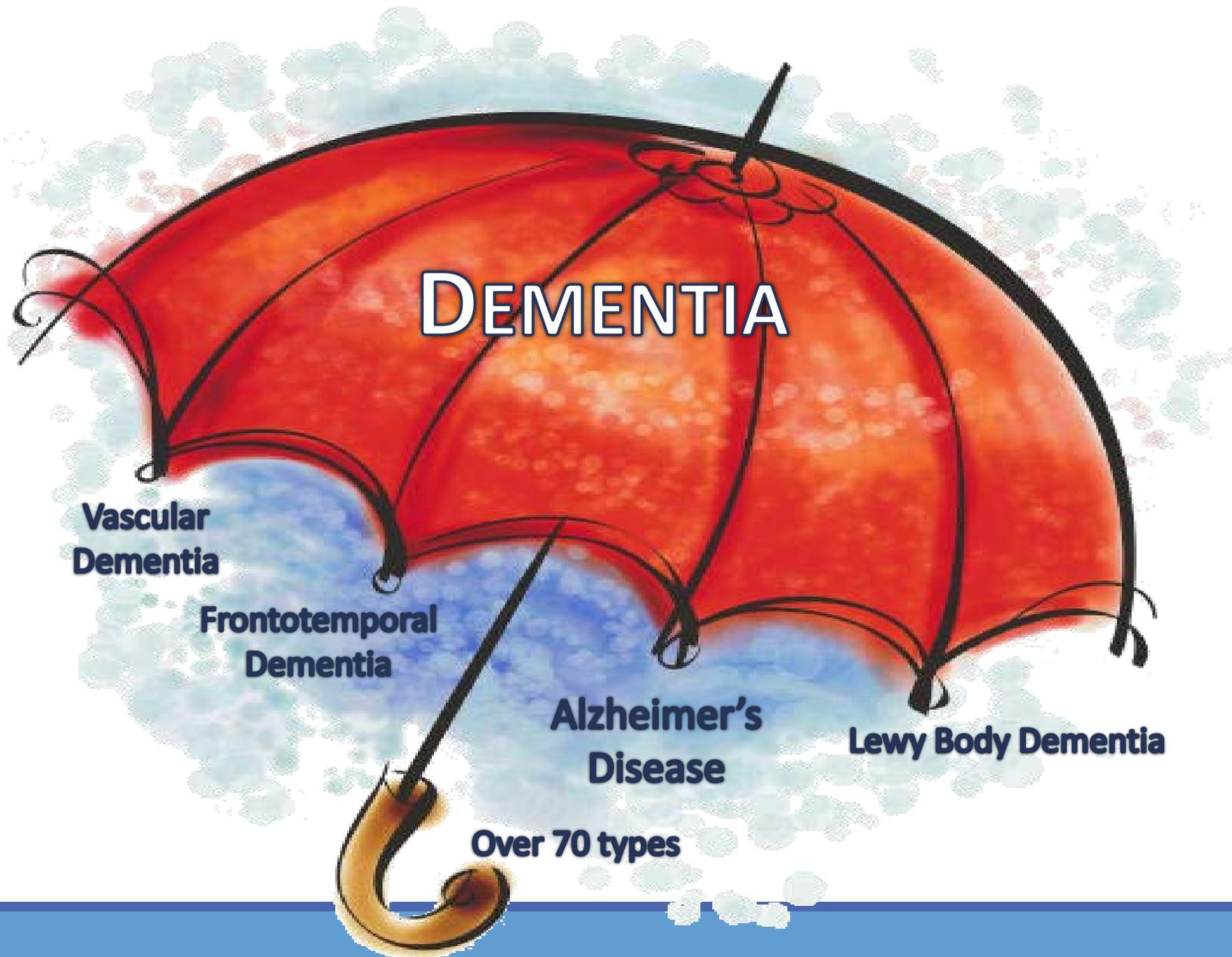
Eventually causes neurological dysfunction

- Examples: incontinence, swallowing problems, balance and walking problems

There are many causes of this syndrome

- Alzheimer's is the most common cause





# Early Stage Changes (mild dementia)

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## **Short-Term Memory Loss**

- Repetition
- Misplacing things
- Cannot learn new information despite repeated attempts

## **Executive Function**

- Decreased judgment
- Loss of initiative
- Difficulty solving problems
- Difficulty performing familiar tasks

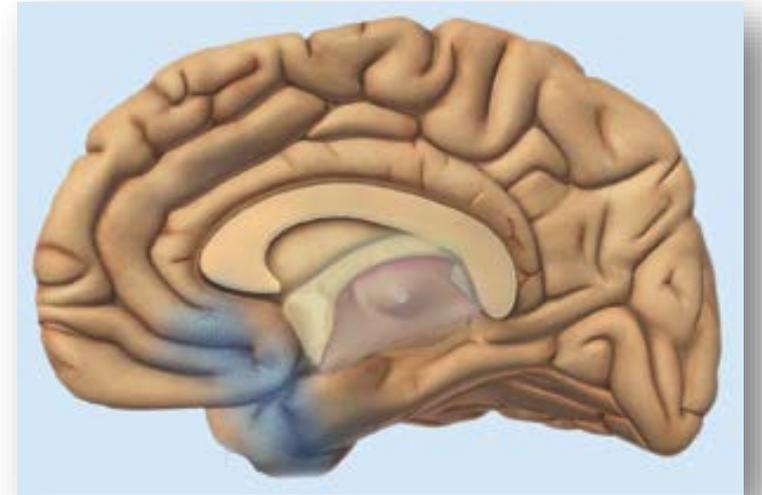
## **Problems with language**

- Word finding/substitution
- Diminished reading comprehension

## **Disorientation of time**

## **Emotions**

- Changes in mood/ behavior/ personality



# Middle Stage Changes (moderate dementia)

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## **Memory**

- Short & Long Term

## **Communication**

- Expressing & Understanding

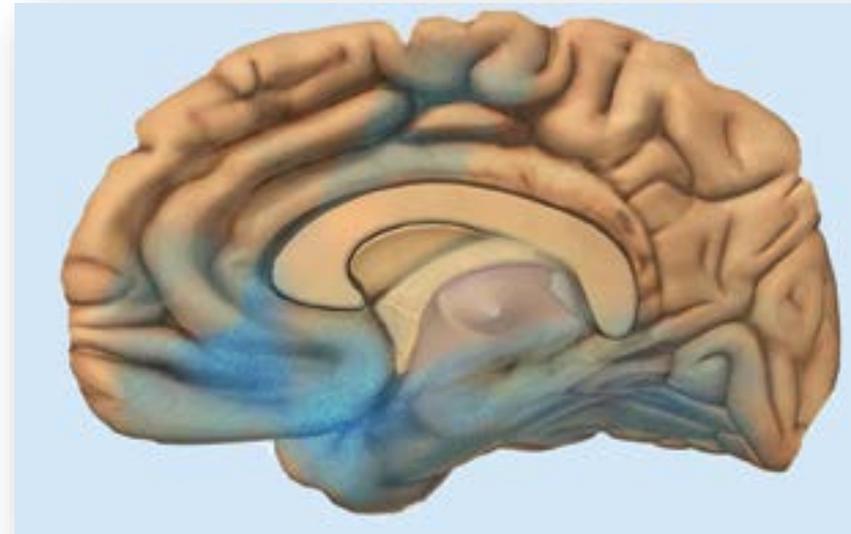
## **Senses**

- Misinterpretation of 'information'
- Disorientation to time and place

## **Impaired judgment and problem solving**

## **Changes in personality & behavior**

## **More dependent in daily living self care tasks**



# Early Stage Needs & Demands

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## Person with Dementia (PWD) Tasks

- Recognition of changes\*\*
- Seek early diagnosis/treatment
  - Cholinesterase inhibitors
  - Antidepressant therapy
  - Consider clinical trial
- Discussion with others
- Learning to make accommodations to live with the chronic illness

## Caregiver's Tasks

- Recognition of changes in memory, thinking, behavior
- Discuss with the person
- Assist in obtaining diagnosis
- Becoming a “care partner”
- Planning ahead
- Taking care of self

\*\*Many have no insight into cognitive changes



# Establishing a diagnosis

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Usually made by a specialist

## History

- Evolution of illness: cognition, function, behavior
- Social, developmental
- Medical/surgical
- Medications
- Family illnesses

## Cognitive Testing

Physical/Neurological Exam

Blood work to rule out other causes

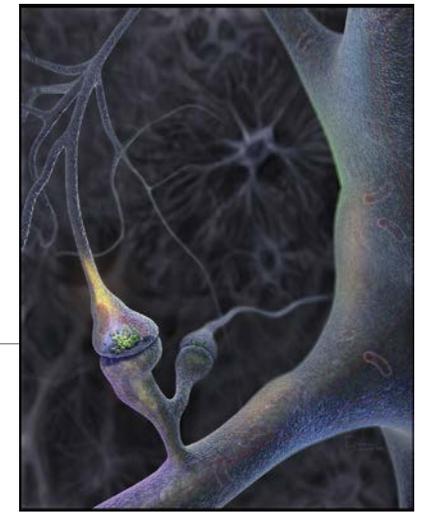
Brain Imaging (CT/MRI)

Sometimes PET scan



# Treatment

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## CURRENT THERAPY GOALS

Target “chemical messengers” v. biology

- Improve memory
- Improve functional status
- Improve behavioral symptoms
- Slow progression of symptoms
- Support family: education, community resources

## EMERGING THERAPIES

All directed at biology of the illness:  
Amyloid/Tau

- Chemical messenger-based drugs
- Drugs to block cell damage
- Amyloid protein modulating drugs and biologics
- Tau protein modulating drugs and biologics

# Living with Alzheimer's/dementia

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Affected person needs assistance to learn to live with this chronic condition

Avoid social isolation by staying socially engaged/connected

Senior Centers, Arts Engagement Programs

Family must get engaged and learn new skills to assist their person

Person and family must begin to plan ahead (medical, legal, financial)

Learn to ask for and accept help

Join the Alzheimer's Prevention Registry ([www.endalznow.org](http://www.endalznow.org))

Find helpful resources:

- Alzheimer's Association ([www.alz.org](http://www.alz.org))
- Banner Alzheimer's Institute ([www.banneralz.org](http://www.banneralz.org))



# Legal Community Needs/Demands

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General awareness of age-related changes v. symptoms of dementia

- Reduce stigma related to dementia diagnosis

Lawyers, judges and staff that can recognize a colleague who is struggling and offer assistance in a non-paternalist manner

Referral to medical professionals who are knowledgeable about dementia to make the diagnosis

Consider participation in a research study ([www.trialmatch.alz.org](http://www.trialmatch.alz.org))

Direction to community based organizations to assist both the person and family

- Alzheimer's Association ([www.alz.org](http://www.alz.org)) – education & support
- Area Agencies on Aging ([www.n4a.org](http://www.n4a.org)) – finding help in/out of the home

# Questions?

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Contact:

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

**Draft Scenarios**  
**February 15, 2017 Program**

SCENARIO 1: You, as a seasoned litigator, have appeared in front of Judge Jay many times throughout the years. Judge Jay, usually shrewd and level headed, has recently become very temperamental and appears, at times, not to follow the arguments presented by the attorneys appearing before him – yet he rules rashly without giving due consideration to the arguments. You are concerned about your clients' matters before Judge Jay because of this recent unpredictability with his behavior/decisions. What can/should you do?

Scenario 2: Attorney Anna has a case before Judge Jane. Anna has appeared before Judge Jane many times and has always been a prepared, effective advocate. However, Judge Jane is concerned about Anna's behavior while representing her current client. Anna appears flustered and forgetful. In a recent motion hearing, Anna would from time to time forget what she was arguing, look at her notes, and start over – never fully connecting the dots to her argument. Anna's client also seemed concerned regarding Anna's argument. What should Judge Jane do?

# Resources Regarding Dementia

## A. Dementia Defined:

- <http://www.alz.org/what-is-dementia.asp>
- [http://www.banneralz.org/media/104007/banner-feb-2016-beacon-combined\\_single-pages.pdf](http://www.banneralz.org/media/104007/banner-feb-2016-beacon-combined_single-pages.pdf)

## B. Types of Dementia:

- <http://www.alz.org/dementia/types-of-dementia.asp>
- [http://www.banneralz.org/media/105103/banner-bai-march-2016-beacon\\_single-pages.pdf](http://www.banneralz.org/media/105103/banner-bai-march-2016-beacon_single-pages.pdf)

## C. Overview:

- [http://www.alz.org/alzheimers\\_disease\\_alzheimers\\_disease.asp](http://www.alz.org/alzheimers_disease_alzheimers_disease.asp)
- <https://www.nia.nih.gov/alzheimers/topics/alzheimers-basics>

## D. Signs:

- <https://www.alz.org/national/documents/tenwarnsigns.pdf>
- <http://banneralz.org/patient-family-care/symptoms-and-diagnosis.aspx>

## E. Stages of Alzheimer's:

- <https://www.nia.nih.gov/alzheimers/topics/symptoms>
- [http://www.banneralz.org/media/107106/banner-bai-april-2016-beacon-and-schedule\\_single-pages.pdf](http://www.banneralz.org/media/107106/banner-bai-april-2016-beacon-and-schedule_single-pages.pdf)
- [http://www.banneralz.org/media/109263/banner-bai-july-2016-beacon-nl\\_single-pages.pdf](http://www.banneralz.org/media/109263/banner-bai-july-2016-beacon-nl_single-pages.pdf)

## F. Science and Treatments:

- [http://www.alz.org/alzheimers\\_disease\\_publications\\_science\\_treatments.asp](http://www.alz.org/alzheimers_disease_publications_science_treatments.asp)
- <http://www.mayoclinic.org/diseases-conditions/dementia/diagnosis-treatment/treatment/txc-20198533>

## F. Caregiver Tools and Resources:

- <https://www.alz.org/care/>
- <http://www.communityresourcefinder.org/>
- <https://www.nia.nih.gov/alzheimers/publication/caring-person-alzheimers-disease/about-guide>
- <http://banneralz.org/education-events/caregiver-classes.aspx>
- [http://www.banneralz.org/media/47894/february\\_2015\\_beacon.pdf](http://www.banneralz.org/media/47894/february_2015_beacon.pdf)

## G. If you have Dementia:

- [http://www.alz.org/alzheimers\\_disease\\_publications\\_have\\_dementia.asp](http://www.alz.org/alzheimers_disease_publications_have_dementia.asp)
- <https://aspe.hhs.gov/alzheimers-dementia>
- [http://www.alz.org/alzheimers\\_disease\\_publications\\_have\\_dementia.asp](http://www.alz.org/alzheimers_disease_publications_have_dementia.asp)

#### H. Safety Issues:

- [http://www.alz.org/alzheimers\\_disease\\_publications\\_safety.asp](http://www.alz.org/alzheimers_disease_publications_safety.asp)
- [https://www.alz.org/national/documents/brochure\\_stayingsafe.pdf](https://www.alz.org/national/documents/brochure_stayingsafe.pdf)
- <https://www.nia.nih.gov/alzheimers/publication/home-safety-people-alzheimers-disease/introduction>

#### I. Planning Ahead:

- <http://www.alz.org/care/alzheimers-dementia-planning-ahead.asp>
- <http://banneralz.org/education-events/online-education/planning-ahead.aspx>
- <https://www.helpguide.org/articles/alzheimers-dementia/dementia-and-alzheimers-care.htm>

#### J. Understanding Options and Finding Care:

- <http://www.alz.org/care/alzheimers-dementia-care-housing.asp>
- <https://www.caregiver.org/>
- <https://www.nia.nih.gov/alzheimers/publication/when-you-need-help/finding-right-place-person-ad>
- <http://www.helpguide.org/articles/alzheimers-dementia/dementia-and-alzheimers-care.htm>
- <http://bnnernalz.org/patient-family-care/family-community-services.aspx>

#### K. Financial/Legal/Insurance:

- Financial/Legal: [http://www.alz.org/alzheimers\\_disease\\_publications\\_financial\\_legal.asp](http://www.alz.org/alzheimers_disease_publications_financial_legal.asp)
- Financial: <http://www.alz.org/care/alzheimers-dementia-costs-paying-for-care.asp>
- Insurance: U.S. Department of Health and Human Services: [longtermcare.gov](http://longtermcare.gov)
- Legal Documents: <http://www.alz.org/care/alzheimers-dementia-legal-documents.asp>

#### L. Organizational Resources:

- Alzheimer's Association: <https://www.alz.org/>
- Alzheimer's Foundation of America: <http://alzfdn.org/>
- Alzheimers.net: <http://www.alzheimers.net/>
- Banner Alzheimer's Institute: <http://www.banneralz.org/education-events/online-education.aspx>
- Caring.com: [caring.com](http://caring.com)
- Dementia Society of America: <http://www.dementiasociety.org/>
- Medicare.gov Nursing Home Compare: [medicare.gov](http://medicare.gov)
- U.S. Administration on Aging Eldercare Locator: [eldercare.gov](http://eldercare.gov)
- <https://aspe.hhs.gov/alzheimers-dementia>

#### M. Additional Reading:

- Alzheimer's and the Law: Counseling Clients with Dementia and Their Families by Kerry Peck and Rick L. Law <http://www.peckbloom.com/alzheimers-and-the-law.html>