

The Power of Legal Protection

Without the proper legal, financial, and health care protection, you may be at risk should you become incapable of directing your own affairs. Advance directives are important planning tools that can set forth your preferences in the event an accident or illness impairs your ability to make decisions. Let's look at three tools that can help you prepare for the future: a durable power of attorney, health care proxy, and living will.

Durable Power of Attorney

A durable power of attorney grants authority to another person to make legal and financial decisions on your behalf even if you become mentally incapacitated. The powers granted can range from broad to limited in scope. With a durable power of attorney, your designee can assist you with decisions regarding your financial and tax situation, investments, insurance transactions, government benefits, estate plans, retirement plans, and business interests.

In the absence of such legal protection, court intervention (with the accompanying time and expense) may be necessary. A durable power of attorney is generally inexpensive and easy to implement.

Health Care Proxies

While a durable power of attorney grants authority to another person to make financial decisions, a health care proxy (also known as a medical durable power of attorney or a durable power of attorney for health care) appoints someone to make health care decisions on your behalf. This directive only takes effect if you are unable to direct your own medical care, and you can generally change or revoke it at any time.

A health care proxy does not enable the designated person to make any financial, legal, or business decisions on your behalf, only medical decisions. In addition to a health care proxy, it is also common to have a living will.

Living Wills

A living will generally allows you to state your preferences regarding the giving or withholding of life-sustaining medical treatment. In most states, you must have a terminal condition, be in a persistent vegetative state, or be permanently unconscious before life-support can be withdrawn. The definition of these terms and the medical conditions covered may vary from state to state.

It is important not to confuse a living will with a testamentary will, which provides for the disposition of property upon death. One is never a substitute for the other.

Federal law (the Patient Self Determination Act of 1991) requires hospitals to inform patients about advance directives. With health care proxies and living wills, you are able to guide your future medical care, even if you become unable to make informed decisions. To help ensure that your legal and financial wishes are also met, legally appoint someone you trust with a durable power of attorney.

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