

# Who'll Be in Control When You Can't Be?

One thing is for certain: Life is unpredictable. But, it is still important to prepare for the future and whatever it may hold. Have you ever considered what would happen if you were to experience an accident or illness that left you incapacitated and no longer able to make important financial decisions? While this unpleasant prospect may be difficult to think about, you can prepare to establish a measure of control in your life should you become incapacitated. One strategy is to establish a **durable power of attorney**—a legal document that appoints someone you trust to handle your financial decisions.

An attorney is a licensed professional who has been granted legal authority to conduct business on your behalf. However, you have the right to provide anyone with this power. If the **power of attorney (POA)** is *limited*, the individual you choose can conduct only that business specified in your agreement. If the POA is *general*, the person's authority is more extensive but still assumes you are competent to review and approve decisions. If the agreement contains what is known as "durable" language (according to the passage of certain state laws), it allows the designated individual, also known as the **attorney in fact**, to make decisions on your behalf in the event of physical or mental incapacity.

## The Time to Prepare Is Now

Generally speaking, a durable power of attorney allows you to specify, in advance, the person you want to make decisions regarding your personal finances and business matters, if you ever become incapable of making those decisions for yourself. By contrast, a **health care proxy** allows you to designate an individual to make decisions regarding your medical care and well-being, and a **living will** allows you to specify your preferences regarding the giving or withholding of life-sustaining medical treatments. These documents are known as **advance directives**, and they are essential estate planning tools for all individuals, regardless of age. Without such documents, court intervention— involving a great deal of time, expense, and stress—may be necessary.

In addition to your own advance directives, consider the important role these documents can play in your *parents'* estate planning. For many of us, discussing such matters with a parent may be uncomfortable. Nevertheless, an open conversation about expectations may strengthen familial bonds and help ensure that your loved ones' preferences for the future will be met.

It is important to note that a will, which only becomes operative *at death*, is not the appropriate vehicle for specifying a durable power of attorney, health care proxy, or living will. Rather, these documents should be created separately by a qualified legal professional who is familiar with the language appropriate for your particular state. Taking the steps to designate your durable power of attorney can

help ensure that your financial decisions will be handled by someone you trust, in the event that you are unable to do so.

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