



## PLANNING FOR INCAPACITY

Although we all hope to never experience incapacity, it is an aspect of life that many end up dealing with. What is important, is that we don't let incapacity define or control us. Instead, we plan for it so that our true wishes are in place and known even after incapacity hits. A Power of Attorney is one tool that can be used to help alleviate some of the stressors and pressures on you or your loved ones in the event of incapacity. Although a Power of Attorney is often put into effect as a defense against incapacity, there are many other uses and reasons to put a Power of Attorney in place.

A Power of Attorney is a written document that is used when someone wants another adult to handle their property or financial matters. The Principal named in a Power of Attorney is the person who creates a Power of Attorney document, and gives authority to another adult who is called the Attorney-in-fact.

A Power of Attorney is an important estate planning tool because it has the effect of appointing a legal representative to act for you. Some people choose their spouse, some choose their children. The good thing about a Power of Attorney is that the choices are yours. The Principal can choose anyone to act as the attorney-in-fact, so long as the person chosen is a competent adult. In addition, the Principal has the right to revoke or cancel the Power of Attorney at any time and may even put a specific time limit on the document.

None of us know when incapacity will hit us. Incapacity can hit anyone at any age and at any time. In order to put a Power of Attorney into effect, you must be competent. That is why planning for incapacity is so important. Planning for incapacity enables you to control your assets and future, and putting a valid Power of Attorney in place is just one way to do that.

If you don't have a Power of Attorney in place and it is determined that you are no longer able to manage your own property and other assets, your loved ones may be forced to bring a court proceeding just to help you manage and control your assets. This is oftentimes done through a Conservatorship Petition. Although Conservators are put in place to protect you and your assets during incapacity, a Conservatorship action brings along with it court costs, attorney fees, court oversight of your assets, and annual reporting requirements. All of the above can usually be avoided by simply having a valid Power of Attorney in place.



*Feel free to contact us at 320-629-7537 to set up a consultation to discuss execution of a Power of Attorney. If you have one already, it's a good idea to update or review it with an attorney to make sure it still reflects your wishes.*

*Content Provided by  
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