

LEGAL ISSUES—PLAN AHEAD

At some point in your life, perhaps as a result of illness, accident or advanced age, you may lack the mental capacity to make or communicate responsible decisions about your own health care. Without directions to the contrary, medical professionals are generally compelled to make every effort to save and maintain your life. Depending on your attitude toward various medical treatments and your views on the quality of life, you may want to take steps now to control your future health-care decisions. You can do so by adopting one or more advanced directives for health care. If you do not adopt such a directive for health care, a family member may have to petition the court for the authority to make those decisions for you.

ADVANCED DIRECTIVES

There are three types of advanced directives for health care. Each serves a different function. Be aware that not all are allowed in every state. Check with your state to find out which one(s) you can consider.

- *Living will:* A living will lets you decline certain types of medical care, even if you will die as a result. Generally, a living will can be used only to decline medical treatment that “serves only to postpone the moment of death.”
- *Durable power of attorney for health care, or health-care proxy:* A durable power of attorney for health care, or health-care proxy, lets you appoint a representative to make medical decisions on your behalf. It becomes effective only when you’ve become incapacitated. You decide how much power your representative will have.
- *Do Not Resuscitate order (DNR):* A DNR is your doctor’s order that tells all other medical personnel not to perform CPR if you go into cardiac arrest. There are two types of DNRs. One is used while you are hospitalized. The other is used while you are outside the hospital.

POWER OF ATTORNEY

A power of attorney is a legal document that authorizes someone to act for you. You name someone known as an agent or attorney-in-fact (though the person need not be an attorney)

who steps into your shoes, legally speaking. You can authorize your agent to do such things as sign checks and tax returns, enter into contracts, buy or sell real estate, deposit or withdraw funds, run a business or anything else you do for yourself.

A power of attorney can be broad or limited. Since the power-of-attorney document is tailored for its specific purpose, your agent cannot act outside the scope designated in the document. For example, you may own a home in another state that you want to sell. Instead of traveling to that state to complete all the necessary paperwork, you can authorize someone already in that state to do this for you. When the transactions to sell the home are complete, the agency relationship ends, and the agent no longer holds any power.

A regular power of attorney ends when its purpose is fulfilled or at your incapacity or death.

A durable power of attorney serves the same function as a power of attorney. However, as its name implies, the agency relationship remains effective even if you become incapacitated. This makes the durable power of attorney an important estate planning tool. If incapacity should strike you, your agent can maintain your financial affairs until you are again able to do so, without any need for court involvement. That way, your family’s needs continue to be provided for, and the risk of financial loss is reduced. A durable power of attorney ends at your death. 

