

Planning ahead

Who will make decisions for you?



MINNESOTA
BOARD ON AGING





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future
MINNESOTA

Choice - Control - Peace of Mind

Planning for your long-term care may seem like a daunting task, but it doesn't have to be! Secure your future by knowing your options, planning wisely and taking action.



It's your future.
Own it!

www.mn.gov/dhs/ownyourfuture

The Minnesota Board on Aging and its Area Agencies on Aging operate Senior LinkAge Line® which provides information and assistance services for older persons. The number is 1-800-333-2433. This publication is the 2013 revision of Planning Ahead originally published in 1994. It is produced with funds made available under the Older Americans Act and Centers for Medicare & Medicaid Services (CMS). Writing and editing assistance has been provided by contracted Elder Law attorneys. However, the information presented is general information and not legal advice.

The services, facilities, and benefits of the Minnesota Board on Aging are for the use of all older people regardless of race, color, sex, religion, disability, or national origin.

Always consult a lawyer for legal advice when making these important decisions.

If duplicating these materials, please acknowledge the Minnesota Board on Aging as the source.

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A One Stop Shop for Minnesota Seniors

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I. Introduction

This booklet is about your future. It is about planning for the expected (death at some point) and the unexpected—a day when you can no longer manage your own affairs. Some of us may be diagnosed with a chronic or debilitating illness and have time to plan. For others of us, it may be a catastrophic injury or stroke and it may be too late to plan. Some of us may not need help at all. For all of us, having a plan in place will mean that we get to choose where we live, our caregivers, who makes health care decisions for us, and who will handle our finances in the event we need help. Having a plan in place gives our families peace of mind, makes the job of caring for us much easier, and overall saves money. Below is a blueprint from which your plan can be drawn—a plan to allow you to live as independently as possible for as long as possible.

Who Should Plan Ahead?

Everyone should plan ahead! If you are older than 65, you have a higher chance of needing long-term care than younger folks—and your life expectancy decreases year by year and so the need for planning is obvious. But the unexpected is a fact of life, so if you are 18 years of age or older you should make decisions NOW before you need help and while you can still communicate and make your own decisions.

What Should the Plan Include?

Your plan should contain some very basic planning documents—a power of attorney, health care directive, and will—along with information and arrangements specific to your situation. This is not a static plan, but one that will evolve as you age or as your illness progresses. You will want to plan for:

1. Long-term care. If you need help with ordinary tasks of daily living—where will you receive the care, who will provide the care, and how will you pay for it?
2. Incapacity. If you lose the ability to manage your finances, take care of your home, and direct your health care, who will step into your shoes to take on those responsibilities?
3. Death. You can ensure that your post-death wishes are followed by giving clear directions for your funeral, the disposition of your body, the donation of your organs, and who should receive your property.

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Please note: The information in this publication should help you plan ahead; it is not, however a substitution for personalized legal advice from a knowledgeable lawyer. If you require legal or other expert advice, you should seek the services of a competent lawyer or other professional. For a referral to an attorney, contact the Senior LinkAge Line® at 1-800-333-2433.

Why Plan Ahead?

If you lose the ability to make or communicate decisions and you did not plan ahead, a court may be asked to appoint a guardian or conservator who will be given authority to make medical decisions for you, to decide where you live, and to manage your property and income. Sometimes, especially if your family is not in agreement, someone you don't know will be appointed. Legal fees will be paid from your resources, and it is often quite expensive. If you do not plan for your death, your property may be given to unintended heirs, or your funeral or a place of burial may not be what you wanted. Putting your desires in writing minimizes the chances of not having your wishes followed.

When Should You Plan for Incapacity?

NOW. You do not want to wait until something happens, because then it could be too late. People who wait for a crisis to happen and don't plan ahead incur more cost because they often:

1. Don't have time to understand and use their benefits correctly;
2. Only have the most expensive options available to them and as a result, spend their savings on solutions that are very costly;
3. Haven't taken the time to become familiar with less expensive home and community based options that can keep them in their home living for as long as possible and as a result will run out of money more quickly.

How Can You Plan Ahead?

Read this booklet and see if you can put some of the informal plans in place, and see a lawyer to get your basic documents prepared.

Where Do You Keep the Plan?

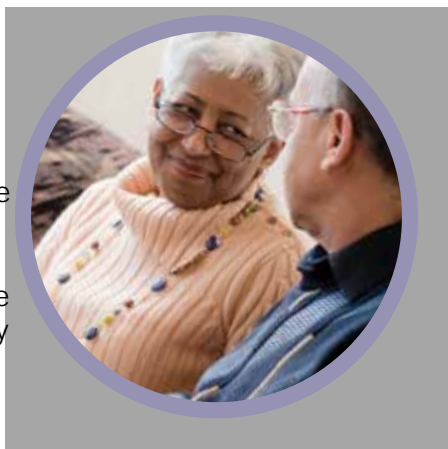
You should put together a notebook, that can be known as your Planning Ahead notebook, where important information and documents are kept.

II. Step 1 — Organize, Organize, Organize

Why Organize?

You may know where all your accounts and important papers are...but what if you suddenly cannot communicate that knowledge to your loved ones? It can take weeks if not months for someone else to find information necessary to manage your affairs if you cannot. If you assemble and maintain a planning notebook, family and friends will be able to access the information necessary to complete tasks in an efficient manner. This chapter

provides an outline and brief explanation of all the essential information to include in your Planning Ahead document or notebook.



Creating Your Own Planning Ahead Document or Notebook

1. Personal Data. To help family members and caregivers easily locate basic information about you, it is a good idea to provide this information at the beginning of the notebook or document you create. This may include information such as your legal name, nicknames, and prior names used; address of any residence, cabin, or second home; telephone number (home, work, cell, etc.); date and place of birth; social security number and Medicare number.
2. Emergency Contacts. This section should include contact information regarding your family members, including spouse, partner, or significant other, children, siblings, and parents. You may also want to consider listing the plumber, electrician, painter, yard service person, handyman, etc., who you use on a regular basis. It may be extremely helpful if work needs to be done on the house while you are incapacitated.
3. Medical Providers and Medical History. This section should include contact information for both your primary care and specialist health care providers as well as important health information such as medical history, medications, allergies, and significant family history. Also include your health insurance plan name and policy/plan number, including your employer or retiree coverage, individual health insurance, Medicare supplement, Medicare Advantage Plan and/or Medicare Prescription Drug Plan (Part D).

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4. Financial Records. This section should include an asset chart listing all assets you own, the current value of each asset, the death benefit (if any), the basis, and all beneficiary designations associated with the asset. You should also include a statement from each account/ life insurance policy/annuity so that the account can be tracked down. This section should also include contact information for your financial advisor, insurance agent, accountant, etc. A copy of your most recent tax statement should be included. You may also want to include a section on recurring bills so that they may be continued/ discontinued as appropriate. If you find it daunting to gather this information by yourself, you should ask your financial advisor to assist you.
5. Legal Documents. This section should include contact information for your attorney(s), health care agents, attorneys-in-fact, beneficiaries, trustees, and the personal representative nominated in your will. You should also include a copy of your will, health care directive, and power of attorney along with information regarding where the originals are stored.
6. Location and a Copy of Important Papers. What is important depends upon your circumstances. These are a few documents that are generally needed and should be included in your notebook: birth certificate, military service records, deeds, insurance policies, stock certificates, a spouse's death certificate, marriage certificates, social security cards, automobile titles, and divorce decrees.
7. User names and Passwords. If you have a computer and you do any on-line banking or have a Facebook account, you need to list the usernames and passwords.
8. Funeral information. If you have prepaid your funeral or burial, the information regarding that funeral should be in your notebook.

Where To Store Your Planning Ahead Document or Notebook

Once you have compiled your Planning Ahead document or notebook, it is imperative that all of this very personal information be safeguarded. Perhaps it can be kept in a safe deposit box or on a flash drive and given to the person most likely to take charge. Perhaps the emergency contact portion of the document or notebook can be kept separate from the entire document or notebook so that portion is easily accessible to anyone who is helping out. You must make sure that this information is protected, yet accessible to the people who will be assisting you.

III. Step 2 — Plan for Long-Term Care

Long-term Care is Expensive

Often the diagnosis of a chronic illness is also a “financial” diagnosis. Money saved to be spent on travel or grandchildren may have to be spent on health and long-term care.

People living with chronic illness or who have experienced a catastrophic event may require assistance with activities of daily living (ADLs) such as bathing, transferring, walking, eating, toileting, and basic hygiene and grooming. This type of assistance is known as custodial care or long-term care. Individuals may receive this care at home, or they may need to move to an assisted living facility or a nursing home where they can get more help. Whichever you choose—getting services in your home or in a different setting—it is important to take the time to understand the full cost of the services and the implications of the cost to you and your family. People are often surprised at how much long-term care costs—and that few government benefits pay for long-term care. Medicare covers very little and it is only for a very short time (a maximum of 100 days) and only under certain medical circumstances. It is imperative that part of your planning addresses how you will **pay** for long-term care. It is very important that you understand the types of private medical insurance and public insurance programs that are available to you to help pay the cost of your long-term care. The state of Minnesota has a website that can help learn about options. (go to <http://mn.gov/dhs/general-public/own-your-future/>).

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Payment Sources for Paying for Long-Term Care

1. Private Health Insurance. Your private health insurance may pay for some nursing home and home health care, but usually that is limited to skilled nursing care. For instance, if you need transitional care between the hospital and home, your policy may pay for a short period of time. As a general rule, private health insurance does not pay for custodial care, either in a nursing home or at home.
2. Long-term Care Insurance. Long-term care insurance policies are privately sold insurance policies that cover the cost of long-term care services not covered by Medicare, including custodial care. Services covered can include adult day care, home health care, assisted living, care management, and nursing home services. Minnesota statutes regulate the sale of these policies and provide consumer protection. The Minnesota Department of Commerce regulates all long-term care insurance policies sold in Minnesota and ensures consumer protections are in place.



The Minnesota Long-Term Care Partnership is an option available in Minnesota since 2006. By purchasing a Partnership Certified Long-Term Care Insurance policy, you can protect assets from being included in determining Medical Assistance eligibility, if, at a later date, you need to apply for Medical Assistance. Information about the individual companies selling individual Long-Term Care Partnership Qualified policies in Minnesota can be found at www.MinnesotaHelp.info[®].

3. Medicare. Medicare is a federal health insurance program that provides health care coverage to individuals eligible to receive Social Security or Railroad Retirement benefits and those who have been eligible for Social Security Disability Insurance benefits for two years. **Medicare covers very little long-term care.** Medicare does not pay for custodial, long-term care, but may pay for some skilled care if all of the following criteria are met:

- **Medicare Coverage for Nursing Home Care.** Medicare pays only for *skilled* nursing care in a skilled nursing facility. It does not pay for custodial care. Medicare pays 100 days per spell of illness (see below) as long as there is a three day (three midnights) qualifying inpatient hospital stay and you are admitted to a nursing home within 30 days of your discharge from the hospital. IMPORTANT: Hospital days that are considered “Observation” do not meet this requirement. If you are admitted to a nursing home after an “Observation” stay, with no qualifying inpatient hospital stay, Medicare will not pay for your nursing home care even if you meet the other requirements. If you have a qualifying inpatient hospital stay, and meet other criteria, Medicare pays 100% for the first 20 days, and, for days 21-100, you pay a daily co-pay that changes January 1 of each year. For the current amounts contact the Senior LinkAge Line® at 1-800-333-2433 and request a copy of Health Care Choices for Minnesotans on Medicare. Medicare will pay for multiple spells of illness as long as 60 days have passed since the last hospitalization or nursing home stay, and there is a new three-night inpatient hospital stay. Make sure that you:
- Are admitted to the hospital for treatment, not observation;
 - Stay in the hospital for three midnights;
 - Are admitted to a nursing home within 30 days of a qualifying inpatient hospitalization;
 - Receive daily skilled care nursing care and/or skilled physical, speech-language or occupational therapy while in the nursing home; and
 - Be aware of your appeal rights should your Medicare coverage end before you receive your 100 days of coverage and remain in the nursing home.
- **Medicare Coverage for Home Health Care.** Medicare will pay for care provided at home or in a housing with services establishment if all of the following are met:
- A doctor states that skilled medical care at home is needed and a plan for home care is developed;
 - Skilled care or physical, speech-language, or occupational therapy is required;

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- You are homebound, where leaving home is very difficult and requires considerable effort; and
- The home health agency is Medicare-certified.



❑ **Medicare Supplement or Medigap.**

Medicare has significant out-of-pocket coinsurance, deductibles and co-pays, so it is very important that you purchase some sort of supplemental policy to pay for the coinsurance and deductibles, if you can afford it. If Medicare is paying for your nursing home stay, most supplemental insurance will pay for the co-pays for days 21-100.

❑ **Qualified Medicare Beneficiary (QMB), Service Limited Medicare Beneficiary (SLMB); and Qualified Individuals (QI).**

These three programs help you pay for your Medicare premiums, co-pays, and deductibles. These programs have modest income and asset limits that change on July 1 of each year. To apply for these programs call your local county social service agency or apply online at www.applymn.dhs.mn.gov. You may also contact the Senior LinkAge Line® at 1-800-333-2433 for help with applying. If you enroll in one of these programs, you automatically qualify for Extra Help with Medicare Prescription Drug Costs that reduces your Medicare Part D premiums, coinsurance and co-pays.

- ❑ **To learn more about Medicare and your supplemental insurance options,** contact the Senior LinkAge Line® at 1-800-333-2433 or go to <http://www.mnaging.net/en/hcc.aspx> to get the current issue of the Minnesota Board on Aging's Health Care Choices for Minnesotans on Medicare.

4. Veterans Benefits through the Veterans Administration. Eligibility for veterans benefits can be complex and may depend on things like whether or not the veteran served during a period of war, the veteran's age, whether or not there is a service connected disability, etc. If you are a veteran, it would be wise to contact either the Veterans Administration or your County Veterans Service Officer (CVSO) in the particular county in which you reside to find out the benefits for which you may qualify. Go to www.MinnesotaHelp.info[®] and do a search for the County Veterans Service Officer for your county.

Aid and Attendance. A monthly income benefit available to veterans or to widows or widowers of veterans who require care in a long-term care setting. Aid and Attendance benefits may also be available to veterans who reside outside of a nursing home but who require daily assistance to live independently. This benefit is means-tested and is available only to veterans or widows of veterans who have limited assets.

Adult Day Care. The Veterans Administration administers an adult day care program for all veterans. Veterans can either pay the full cost or seek financial assistance based on need. If the veteran has a service-connected disability, there is no cost.

Veterans Directed Home and Community Based Services (VD-HCBS). This is a program that provides veterans (not spouses of veterans) of all ages the opportunity to receive home and community-based services in a consumer-directed fashion that enables them to avoid nursing home placement and to continue to live in their homes and communities. This program is offered as a special component to the Administration on Community Living (ACL) Community Living Program (CLP). The Administration on Community Living and Veterans Administration (ACLVA) joint partnership combines the expertise of the Administration on Community Living's national network of aging service providers with the resources of the Veterans Administration to provide veterans and their caregivers with more access, choices, and control over their long-term care services. To be eligible, the veteran must be receiving care through the Veterans Administration and have a physician's order that home care is necessary. Call the intake line at 612-725-1994 to enroll or for more information. It is not available statewide currently but is being considered for statewide implementation as of the date of this publication.

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- **Payment of Nursing Home Costs.** The Veterans Administration has contract facilities all over the state of Minnesota and a nursing home in St. Cloud. The more serious the service-connected disability, the more likely it is that the veteran can have the cost of care paid by the Veterans Administration. This is not a needs-based program; it is based completely dependent on the veteran's service connected disability.
- 5. **Minnesota Veterans Home** (www.mvh.state.mn.us). The Minnesota Veterans Homes have been established to provide health care services to Minnesota veterans, spouses, and surviving spouses who meet financial eligibility requirements and have a medical need to live in a structured health care environment. The Minnesota Veterans Homes offer two types of care: board and care and nursing care. The Minnesota Veterans Homes Board of Directors is responsible for oversight of the Minnesota Veterans Homes. These facilities are located in Minneapolis, Silver Bay, Luverne, Fergus Falls, and Hastings.
- 6. **Medical Assistance.** Medicaid, called "Medical Assistance" (MA) in Minnesota, is a joint program between the federal and state governments. In Minnesota, the program is managed by the Minnesota Department of Human Services. Medical Assistance will pay for long-term care services both in the nursing home and in the community for those who qualify. To qualify for Medical Assistance-covered long-term care services, you must be either elderly (65 or older) or disabled or blind as determined under the Social Security Administration rules. You must also meet strict limits for both assets and income. If you qualify and are in a nursing home, Medical Assistance will pay for all your health-related services, including room and board. If you qualify and are living in the community, it will cover such items as adult day care, respite care, homemaker services, home health services, personal care attendant services, case management, and other health-related services, but not room and board. Individuals age 65 and older may be eligible for more extended services at home through the Elderly Waiver and Alternative Care programs. Medical Assistance is for persons who have no other resources to help pay for long-term care services; it is the program of last resort.

IV. Plan Ahead for Management of Your Money and Property

Informal Arrangements with Friends or Family Members

There are informal ways in which a person can arrange to receive assistance with finances and property management. Sometimes a person may need only a minimal amount of help in order to live independently. You may want to hire someone on a regular basis or a one-time basis. For example, if you know someone you trust enough to confide in about your finances, that person can help you do things like write the checks to pay your bills (while you remain the person to sign the checks), file tax returns, balance your accounts, and/or manage property.

You can even hire someone to come to your house once or twice a month to help you. In this situation, you can still be the only person who can sign your checks or withdraw money from your account. In other words, you remain in charge of your own affairs but you have someone helping you.

If the time comes, however, when you are not able to sign your checks and so forth, more formal arrangements may be necessary. To protect yourself, make sure the person who is helping you agrees to keep good records and goes over them with you (and possibly another trusted person) at regular intervals.

Sometimes people make more risky informal arrangements. They give a loved one title to their house in exchange for a promise that the loved one will help them and they can live there forever. Or, a son may put his mother's money in his bank account in order to pay her bills. While this may work just fine for some people, it is generally not a good idea.

Never give your money or property to anyone as a tool to plan for incapacity without first discussing the matter with your lawyer.

- **Are there risks in relying on informal arrangements?** Yes. It is risky to proceed without legal documents, because you may someday lose the capacity to manage your own affairs. If you wait until you have lost capacity, it is then too late to make your own arrangements. You must have capacity to execute the legal documents that make it possible for someone else to manage your financial and personal

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needs if and when the time comes that you can't do it yourself. In these documents, you can name the persons you want to take over, and also give guidance about how you want your financial and personal affairs to be managed. Without legal or written documentation, here are some of the risks you face:

- Your family and friends may not do or know what you want.
- An informal arrangement with one family member may not work if other family members do not agree...and they think they know what's best for you!
- If you do become unable to handle your own affairs, you cannot be sure about who will end up making decisions for you, or what those decisions will be.
- It can be dangerous to give money or property to someone else to use for you. If that person dies, gets divorced, or goes bankrupt, you could lose your home or money to that person's heirs, spouse, or creditors.
- If you give away property, or sell it for less than it is worth, you might be temporarily disqualified from Medical Assistance (MA), the program that helps pay nursing home expenses when you have no other resources.

Because of these and many other risks, it is a good idea to have a back-up plan that includes one of the following more formal arrangement/legal planning tools:

Formal Arrangements

Even if informal arrangements are working perfectly, the day may come when you need more help or you lose your ability to make decisions or direct your care. Or you may be the kind of person who does not want to tell a friend or family member about your money matters. Or you simply want more protection. You should read through this section to find the planning tools that best fit your needs.

1. Automatic Banking and Direct Deposit. Modern banking technology, such as automatic bill payment and direct deposit, can help you with your finances. At a minimum, your Social Security payments and pension income should be directly deposited. You should also arrange for your utilities and insurance payments to be withdrawn automatically from your account. This can prevent your health

insurance from being unintentionally discontinued or your electricity from being shut off. It is wise to have one “working” bank account, such as a checking account, into which income is deposited and from which monthly bills are paid. To arrange for Social Security checks to be deposited directly to a bank account, you may call Social Security at 1-800-772-1213 and ask for a direct deposit form or sign up on the Social Security Direct Deposit page online at www.ssa.gov/deposit. A bank can also provide you with this form. Beginning in 2013, all Social Security recipients are required to have checks directly deposited, unless a recipient qualifies for a waiver.

2. Multiple-Name Bank Accounts. Adding a name to a bank account is an easy and effective way to allow a trusted relative or friend to provide informal help. By having access to the account, another person can help sign checks, pay bills, or transfer money between your accounts. This person can also have access to bank records to monitor electronic deposits, ensure all bills are paid on time, and review monthly statements to ensure that everything is accurate in all your accounts. Several types of multiple-name bank accounts are available, each with different rules. Any type of account—for example, savings, checking, certificates of deposit—may be held in more than one name. Such accounts are easy to set up just by visiting the bank. However, great care must be taken to select the appropriate type of account (as explained next) for your situation and to ensure that you have selected a trustworthy person to help you.

- **Joint Account.** In a joint account, any person whose name is on the account is considered a co-owner. Each named person can make deposits and withdrawals without the other person’s knowledge or consent. There are, obviously, a few facts about joint accounts to keep in mind:

- The other person’s creditors could tie up your account (with a lien or attachment) until you prove how much of the account funds you contributed.
- You might not be able to take the other person’s name off the account without that person’s written approval.

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- In a joint account, when one owner dies, the survivor automatically owns the account without having to go through probate. However, this can be a benefit in that the funds are immediately available to pay expenses such as funeral costs that need immediate attention. You need to make sure, though, that you want the other owner of the joint account to have the funds at your death.



- Agency Designation/convenience/power of attorney account. If you are worried about some of the risks and consequences of the joint account, an account with an agency designation, also called a convenience account or power of attorney account, may be a better choice. The agent can make deposits and withdrawals and sign checks, but is not an owner of the account. Therefore, that person's creditors cannot tie up your account. However, there is the risk, as with joint accounts, that the other person could withdraw all your money. Unlike a joint account, the account does not belong to the authorized signer when you die; rather, funds in this account belong to your estate. Thus, at the moment of your death, the account is frozen until someone with legal authority can access the account.
3. Naming a Representative Payee. A representative payee is an individual or organization appointed by the United States Social Security Administration, the United States Office of Personnel Management, the United States Department of Veterans Affairs, or the United States Railroad Retirement Board who may be charged with receiving your income, using that income to pay current expenses, saving for future needs, and maintaining proper records. The Social Security Administration has a Representative Payee Program with rules and regulations to protect the beneficiary of the income. Learn more about the Representative Payee Program at www.ssa.gov/payee. To have the authority to manage your Social Security or Supplemental Security Income benefit, a person or organization must be appointed by the Social Security

Administration. A power of attorney or note from you is not good enough. Having a representative appointed provides oversight that may give you assurance that your bills and finances will be properly handled. There are individuals and organizations you may hire to serve as your representative payee. These individuals or organizations are called “professional fiduciaries.” To find a listing of professional fiduciaries who serve as representative payees go to www.MinnesotaHelp.info[®].

Powers of Attorney

A power of attorney is a written document that appoints someone to handle your property or financial matters for you, in whatever way you spell out. The person signing the power of attorney document is called the principal, and the person named to handle the principal’s property is called the attorney-in-fact. The attorney-in-fact does not have to be a lawyer.

- When you need a power of attorney. A power of attorney is used when you want business taken care of for you and you cannot do it yourself. For example, a power of attorney can be used to authorize someone to handle a business transaction when you are out of town. Or a power of attorney can be used to authorize someone to pay your bills, manage your bank accounts, make sure you are getting your income, etc., on an on-going basis if you are physically or mentally incapable of taking care of these things.
- The power of attorney should be durable. An ordinary power of attorney ends when you (the principal) are no longer able to make decisions for yourself. A *durable* power of attorney says that the powers continue after you become incompetent. It is very important that you make sure that the power of attorney document you sign is durable so that it may be used when you no longer have capacity and cannot manage your own affairs.
- Choosing an attorney-in-fact. You should choose a very trustworthy person who is good with numbers and is very responsible. Don’t just automatically choose your eldest child! It is a huge responsibility and very time-consuming. There are professionals who will serve as attorney-in-fact.
- The attorney-in-fact has whatever authority you give him or her. In the power of attorney document, you can give authority to handle all your property and financial matters, or you can limit it to certain actions such as paying your bills or selling a piece of property. You

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must be very careful whom you appoint and what powers you give that person, because he or she will essentially be standing in your shoes and will be able to transact business without your knowledge or consent. While the attorney-in-fact is required by law to act in your best interest, it is difficult to get money back if he or she has taken your money or property or handled your affairs unwisely.

- Creating a power of attorney. Any competent person 18 years of age or older may create a power of attorney. It must be in writing and signed in front of a notary public. There are two types of powers of attorney and it is very important to meet with an attorney before you execute a power of attorney to ensure that you have a power of attorney that meets your needs.
- The Minnesota statutory short form power of attorney. You can create a power of attorney by completing a form known as the statutory short-form power of attorney (SSF-POA). Using a SSF-POA is recommended because it is a form recognized by banks and financial institutions in Minnesota. If the statutory form is used and it has been correctly executed, it must be honored when presented. Thus, it is very useful for conducting day-to-day business and to sell real estate. It is recommended that you have an attorney prepare the SSF-POA for you. You can, however, purchase the form at a stationary store that sells legal forms or download the form and complete it yourself. NOTE: The Minnesota legislature amended the Power of Attorney statute in 2013, and a new form will be required as of January 1, 2014. Make sure that the form you use is dated January 1, 2014 or later. If you use the incorrect form, or modify the form in any way, a business or financial institution that does not honor the power of attorney is not liable under the statute for failure to do so.

You must be very careful if you decide to complete a form yourself. While it might seem an easy thing to fill in a form, too many times individuals sign documents they have printed off the internet only to discover later that the documents are invalid or incorrectly executed or cannot be used for the purpose intended. If you mark an “X” before every power listed, you have given the attorney-in-fact complete authority over your property, including legal permission to give all of your property away, even to transfer your property to the attorney-in-fact himself or herself (with some limitations). Sometimes there are valid legal reasons why a principal would want to give such broad power over his or her property, but such power can also be misused.

- A common law power of attorney. A common law power of attorney is a power of attorney that does not satisfy the requirements of the SSF-POA. Often attorneys will draft common law powers of attorney for individuals who require that their attorneys-in-fact have broader powers for administration of their affairs than those available under the SSF-POA.
- The power of attorney in action. Your attorney-in-fact must present an original power of attorney to the financial institution to show that he or she has authority to act for you. Sometimes a copy is accepted, but most often an original is required. A power of attorney works only if it is accepted by the bank or creditor or entity with whom the attorney-in-fact needs to do business. While you are not obligated to use the SSF-POA (see above), if you do, any third party that is obligated to deal with you (banks where you have accounts, people who owe you money, etc.) must accept your power of attorney and deal with your attorney-in-fact.
- Safeguards to protect you. While a power of attorney is an excellent planning tool, it has its risks. It has been called a *license to steal*. While every person's needs and circumstances are different, you may want to consider writing safeguards into the power of attorney to make sure that your finances will be handled the way you intend. These are some of the safeguards you can consider:
 - Require that the attorney-in-fact give an annual accounting to you and to your lawyer or an independent accountant or a trustworthy family member to review.
 - Name two attorneys-in-fact on the document and specify that they must act jointly (both attorneys-in-fact must agree and both sign checks, etc.).
 - Require the attorney-in-fact to obtain a surety bond to cover the value of your property if the attorney-in-fact mishandles your funds.
 - Make sure that the trustworthy person you pick to be your attorney-in-fact is both willing and able (i.e., has time) to handle the responsibility.
 - Make sure you also name a successor to take over the responsibility if the first attorney-in-fact dies or becomes incompetent or simply chooses not to act on your behalf.

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- Beginning on January 1, 2014, the new SSF-POA form will include an “Important Notice to the Attorney-in-Fact” which the attorney-in-fact must read and sign. The notice explains when the attorney-in-fact may be held personally liable and that even though an attorney-in-fact has no duty to act, any actions must be made in good faith and in the best interest of the principal. The “Important Notice to the Principal” clarifies that the attorney-in-fact does not have health care decision-making authority and addresses revocation and termination of the power of attorney.
- The principal or any other person designated by the principal to receive accountings is entitled to recover reasonable attorney’s fees and costs if the court finds that the attorney-in-fact failed to render an accounting after a duty to account arose.
- The limit on the amount the attorney-in-fact can gift to himself/herself or others that he/she has a legal obligation to support is now the same as the federal annual gift exclusion.
- Ending the power of attorney. The power of attorney ends when the principal dies. Also, you can cancel or revoke a power of attorney at any time as long as you are competent. This is called a *revocation of power of attorney*. You must put the revocation in writing and sign it before a notary public. You must then send copies to the attorney-in-fact and to any person or institution with whom the attorney-in-fact has done business on your behalf, for example, banks or other financial institutions. If the principal becomes incompetent, the power can be revoked only by a guardian or conservator, if one has been appointed for the principal. Powers of attorney that are not durable end when and if the principal becomes incompetent. If you give power of attorney to your spouse, it ends if you begin proceedings for dissolution, separation, or annulment.

Trusts

A trust is a legal arrangement in which a person or a financial institution, called the *trustee*, holds legal title and manages assets for the *beneficiary*. The person who creates the trust is called the *grantor*. An agreement, called a trust instrument, between the grantor and the trustee explains the trustee’s authority. For example, if you want to set up a trust for yourself and you want to manage your property while you are able to do so, you will be the grantor, the trustee, and the beneficiary. Upon your incapacity, another person or a financial institution will take over the responsibility of

trustee, and the terms of the trust instrument will state how your property is to be managed.

Trusts are not for everyone. A living trust is generally not appropriate for modest estates because the costs and disadvantages, including the time and logistics involved in administering it, outweigh the benefits, and a power of attorney is all that is needed. There are times, though, such as when you have property in different states or you have disabled children, that a trust is absolutely the correct choice. As with any planning tool, it is important to review each option to determine what will work for you. In other words, one size does not fit all.

- Basic living trust. A trust is a *living* trust if it is created while you are alive. A *testamentary* trust is created by your Last Will and Testament and springs to life at your death. A living trust is generally used to manage property during your lifetime and can be revocable or irrevocable:
 - A revocable trust means that, as long as you are competent, you may change, revoke, or terminate the trust at any time while you are alive. Most commonly, in a living trust you would be both your own trustee and beneficiary. As such, your Social Security number would be used when establishing trust accounts or doing trust business. You would manage your property as if the property were in your name. A trust agreement would also include your directions should you become incompetent or die. If you have a medical condition that could result in your inability to manage your affairs, a revocable living trust may be the right choice. A revocable living trust is often used as a planning tool, because it allows a trustee to manage your property for your benefit during your lifetime and can also provide for distribution or ongoing management after your incapacity or death. Once you die, the trust becomes irrevocable.
 - An irrevocable trust cannot be changed or terminated after it has been established. It is a separate taxable entity, requiring its own tax identification number. Tax considerations may be a factor in deciding whether to make a trust revocable or irrevocable, particularly when a substantial amount of property is involved.

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- Choosing a trustee. A trustee has as much, if not more, responsibility as an attorney-in-fact in a power of attorney. Great care must be taken in choosing your trustee. In most revocable living trusts, you would serve as trustee as long as you are able to do so. If you become incapacitated, the “successor trustee” would take over and be responsible for management of all trust assets during your life and for distribution of these assets to the beneficiaries upon your death. Being a trustee is a huge responsibility and should not be taken lightly. While a family member or other individual could be named trustee if you are sure that person is trustworthy and capable of acting in this capacity, a fair amount of expertise is needed to handle the paperwork, tax returns, and property management tasks that may be involved. In most cities, professional trustees are available for hire, and many banking institutions have trust departments. Going over options with an attorney before naming a trustee is always wise.
- Creating a living trust. A living trust is generally created by written agreement. The grantor and trustee execute the trust agreement setting forth how the property should be managed during the grantor’s life and after the grantor’s death. Trusts should be drawn up by an attorney.
- A revocable trust cannot be used to avoid paying nursing home costs. A revocable trust is considered an available resource under Medical Assistance (MA) laws and is not a way to avoid spending savings on nursing home care. The federal and state Medical Assistance (MA) laws are very complicated and subject to change at any time. Do not try to use a trust for this purpose without getting competent legal advice.
- Special trusts for persons with disabilities on Medical Assistance (MA). MA rules are complex and vary depending (among other things) on whether you are married or single, the types of services you need, and your age. As a very general rule, however, you may keep a car and your home (as long as you are living in it) and about \$3,000. Be aware that this amount varies. The point is, you can have only limited assets outside of your home and car. There are

three types of trusts that, if properly established and administered, allow an individual with a disability to retain more than \$3,000 and still be eligible for MA to pay for the cost of care. These three trusts are a first-party special needs trust, a supplemental needs trust, and a pooled trust. The funds in any of these three trusts may be used to purchase goods and/or services that benefit the individual and do not replace the government benefits the individual receives. For instance, funds may be used to pay for a companion dog, nonconventional treatments, massage, companion services, a home, rent, travel, or clothing. Funds may not be used to pay for medical services covered by MA. Because you can have only \$3,000 to be eligible for MA to pay the cost of custodial care, having a special needs trust can make a significant difference in your life. Sometimes a special needs trust can make the difference between living at home or in a nursing home.

Remember, trusts are complicated. If you think you want to use a trust for planning, talk to a lawyer who knows trust law.

- *Special Needs Trust.* The special needs trust is established for the sole benefit of a person under the age of 65 who is disabled as defined under the Social Security Act. The trust is set up by the person's parent, grandparent, court, or guardian and is funded with only the assets of the disabled person. The trust agreement must state that, at the death of the disabled person, any remaining trust assets must be distributed first to the state as repayment for any Medical Assistance received by the disabled person. When these requirements are met, the assets held in trust are not considered available to the disabled person except to the extent they are distributed to the disabled person, and the transfer of the disabled person's assets into trust is not penalized.
- *Supplemental Needs Trust.* A supplemental needs trust is established for the benefit of a person who is disabled as defined under the Social Security Act. The trust is set up by anyone *other than* the disabled person, the person's spouse, or anyone obligated to pay any sum for damages or any other purpose to or for the disabled person. The trust is funded with assets of persons *other than* the disabled person. The assets in the trust are not considered available to the disabled person

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except to the extent they are distributed or unless or until the disabled person goes into a nursing home after age 64.

- *Pooled Trust.* A pooled trust is managed by a non-profit corporation and is made up of individual accounts for individual disabled persons of any age. Each account established for the benefit of a disabled person holds only the assets of the disabled person and is maintained for that person. The trust account may be established by a parent, grandparent, guardian, court, or by the disabled person. The trust must provide that any assets remaining at the death of the disabled person, to the extent that they are not held in trust for other disabled persons, must be paid to the State for Medical Assistance that the person received. When these requirements are met, the assets held in trust are not considered available to the disabled person.

Because of the complexity of these trusts, you are strongly advised to seek the advice of attorneys who have experience in this area.

Conservatorship

A conservatorship is a relationship between two people created by a court to protect persons who cannot handle their own financial affairs and have not made prior arrangements for that purpose. The court appoints a *conservator* to help manage the finances, assets, and income of the *protected person*, when the court finds that the person has impairment in the ability to receive and evaluate information or make decisions about such matters.

- Establishing a Conservatorship. Anyone can petition (ask) the court to appoint a conservator over a person who needs help. The potential protected person must be given advance notice of the hearing and has the right to be represented by an attorney at any court proceeding, even if he or she cannot pay for the attorney. In this case, the court will order the county to pay these costs. The person requesting a conservatorship must prove through clear and convincing evidence that such an order is necessary. This could be difficult if the protected person does not want a conservatorship established.

- Ending a Conservatorship. The conservatorship ends if the protected person can show the court that there is no longer a need for protection. Usually a doctor or social worker needs to tell the court that the person can handle his or her own affairs. Conservatorships also end if there are no assets to protect. Sometimes conservatorships are established to sell a home and pay for care out of the proceeds. Once the money is gone, there is no need for the conservatorship and the court will dismiss the matter.
- Avoiding Conservatorship Should Be a Priority. There are many reasons to avoid a conservatorship: it takes away your right to make decisions about your own finances and it is expensive. It may be necessary if family members disagree about your plans for yourself, and they begin fighting amongst each other as to how best to care for you. Thus, the most effective way to avoid conservatorship is to plan carefully and make sure your family knows exactly how you want your finances managed.

V. Plan Ahead for Management of Your Health Care and Living Situation

Informal Arrangements

There are informal ways in which a person can arrange to receive assistance. For example, you can have meals delivered, medication set-ups, a personal care attendant come in and help you with bathing, cooking, or housecleaning; or someone to come over once a week to go shopping and cook with you. These sorts of informal arrangements allow you to get help and live independently while at the same time remain in control of your decision-making. Sometimes children come and live with parents or parents move in with children. There are countless ways that families have come up with to care for people who are aging or living with disabilities.

Family Personal Services Contracts

Parents (and children) don't really like the idea of commercializing family caregiving arrangements. The fact is, though, that 92% of all caregiving is done by family members. Sometimes, caregivers must give up their day jobs in order to provide the level of care that is needed, and they have financial obligations of their own that must be met. This makes personal care contracts an attractive option, both to make sure that the

Who will make decisions for you?

level of care is met and that children (or other relatives or friends) will not have to sacrifice their own financial well-being while providing care to their parents. Personal care contracts must, as a general rule, be in writing, signed, and notarized. The contract should state the kind and extent of services that are necessary, on reasonable terms. Because personal services contracts involve payment for services, income paid to a family caregiver pursuant to such a contract is subject to payroll and income taxes. Tax credits aren't available for parent-caregiving unless the parent is the child's legal dependent. You should not attempt to prepare a caregiver contract without the advice of an attorney.



Health Care Directive

A health care directive (HCD) is a written document in which you name someone to make decisions about your care. If you are the person making the HCD, you are called the *principal*. The person you name to make decisions is called the *health care agent*. In the HCD, you can also write your wishes about organ, eye, and tissue donation; funeral arrangements; end-of-life care; choice of providers; and where you want to receive your care.

- Why make a health care directive? As an adult, you have the right to make decisions about your own health care. You have the right to refuse treatment and to authorize treatment. You also have the right to information about your health problems and the various treatments. That right does not end when you are not able to make decisions for yourself. By putting your health care wishes in writing, you are giving your family and loved ones a gift: they will know what your health care preferences are and whom you chose to make decisions for you. And you are giving yourself a gift, the gift of knowing that your wishes will be observed, even if you cannot state them yourself at the time.
- Is a health care directive the same as a living will? No. In 1998, the Minnesota Legislature created the Health Care Directive which takes the place of Living Wills and the Durable Powers of Attorney for Health Care (DPOAHC). Prior to 1998, you had to have a Living

Will in place to appoint someone to make decisions for you when you were in a “terminal condition.” You also had to sign a DPOAHC so that you could have an agent to make decisions for you, review your medical records and discuss your condition with your doctor if you were incompetent but not in a terminal condition. The health care directive combines both the living will and the DPOAHC into one document. If you have a living will and you prepared it before August 1, 1998, it is valid. If you prepared it after that date, you should have a new Health Care Directive prepared.

- What must a health care directive include?
 - It must be in writing.
 - It must be dated.
 - It must state the name of the principal who must be competent when he or she signs the document.
 - It must be signed and witnessed by two people or signed before a notary public.
 - It must include either a health care power of attorney or health care instructions.

- Who can be a health care agent? A health care agent may be any individual 18 years of age or older who is not the principal’s health care provider or an employee of the health care provider on the date the health care directive is signed or on the date the health care agent must make a decision. It is wise to choose someone you know very well and someone you trust to make decisions according to your wishes. It is very important that you talk to this person about being your health care agent before you appoint him or her. It is also important that you name a successor health care agent in case the first person you name is not able or willing to act on your behalf when the decisions must be made. You must make sure that the person(s) you want to appoint:
 - Wants to be your health care agent;
 - Understands your wishes; and
 - Will follow your instructions and act in your best interests.

- What may be included in the health care directive? An individual may:
 - Appoint one or more agents or alternative agents and include instructions as to how decisions should be made and whether or not named agents must act jointly or may act independently;

Who will make decisions for you?

- State which nursing home the principal would like to live in the event nursing home care is necessary;
 - State which medical records the health care agent should be able to get and when;
 - State that the health care agent is the “personal representative” under the federal Health Insurance Portability and Accountability Act (HIPAA) and has the authority to have access to medical records;
 - State whether the health care agent shall be guardian or conservator in the event a petition is filed;
 - State whether to donate eyes, tissues, or organs upon the death of the principal;
 - Make a declaration regarding intrusive mental health treatment or a statement that the health care agent is authorized to give consent for such treatment;
 - State what will happen with the principal’s body at death (burial or cremation);
 - State instructions regarding how the principal would like her pregnancy to affect health care decisions made on her behalf;
 - Give instructions regarding artificially administered nutrition or hydration;
 - State under what circumstances the health care directive will become effective; and
 - State any other instructions regarding care including how religious beliefs may affect health care delivery.
- When do the health care agent’s responsibilities begin? Generally, the health care agent may begin to make decisions for the principal when, in the judgment of the principal’s attending physician, the principal lacks decision-making capacity. However, the principal may state in the health care directive that the health care agent has authority to act even if the principal still has capacity.



Planning ahead

- What are the duties of the health care agent? The health care agent does not have a legal duty to act. That is one of the reasons it is so important for you to talk with the person you have appointed, to make sure that person will act on your behalf and will follow your wishes. The health care agent has authority to make health care decisions as though standing in the principal's shoes. The health care agent must carry out the health care directive in good faith. The health care agent should ensure compliance with the health care directive and seek legal help in the event the doctor or health care provider will not comply with the health care directive.
 - Can the health care directive be cancelled or revoked? The principal may cancel or revoke the health care directive in whole or in part by:
 - Destroying the document;
 - Directing another person to destroy it;
 - Executing a written and dated statement stating what part of the health care directive he or she wants revoked;
 - Verbally expressing the intent to revoke it in the presence of two witnesses who do not have to be present at the same time; or
 - Executing a new health care directive.
 - Where should the health care directive be kept? The health care directive should be kept with personal papers in a safe place. Do not place it in a safety deposit box because you want it used in an emergency! Give signed copies to doctors, family, close friends, the health care agent, and the alternative health care agent. Make sure the doctor is willing to follow the principal's wishes. This document should be part of the principal's medical record at the physician's office, the hospital, the home care agency, hospice, or nursing facility where care is received.
- DNR/DNI/DNH.** The acronym DNR/DNI/DNH means “do not resuscitate/do not intubate/do not hospitalize.” This is a request by a patient to his or her physician to limit the scope of emergency medical care. The request is signed by the patient or the patient's proxy, and it must be ordered by a physician. It will be followed by emergency medical personnel if presented to them at the time of the emergency. You should have a health care directive as well, because the DNR/DNI/DNH is limited only to decisions regarding end of life and resuscitation or intubation and does not deal with all the other myriad issues that may arise at the end of one's life.

Who will make decisions for you?

- **POLST—Physician Orders for Life-Sustaining Treatment.** POLST is a signed medical order that communicates the patient’s end-of-life health care wishes to other health care providers during an emergency. A POLST does not replace a Health Care Directive; it is a tool by which providers can discuss end-of-life treatment options with patients who have been diagnosed with serious illnesses. The form is generally more specific than an advance directive, and, since it is signed by a physician, it is a medical order. Like the DNR/DNI/DNH, you are advised to have a health care directive and appoint an agent, even if you have a POLST.
- **Guardianship.** A guardianship is a relationship between two people created by the court to protect persons who cannot handle their own personal affairs and for whom no prior arrangements have been made. A *guardian* is appointed to look after the personal affairs of the *ward*, when the court finds that the person is incapacitated. The guardian will make personal decisions such as the type of medical care you get and where you will live.
 - Establishing a Guardianship. Anyone can petition (ask) the court to appoint a guardian over a person who needs help. The potential ward must be given advance notice of the hearing and has the right to be represented by an attorney at any court proceeding, even if he or she cannot pay for the attorney. In this case, the court will order the county to pay these costs. The person requesting a guardianship must prove through clear and convincing evidence that such an order is necessary. This could be difficult if the protected person does not want a guardianship established.
 - Ending a Guardianship. The guardianship ends if the protected person can show the court that there is no longer a need for protection. Usually a doctor or social worker needs to tell the court that the person can handle his or her own affairs.
 - Avoiding Guardianship Should Be a Priority. There are many reasons to avoid a guardianship: it takes away your right to make decisions about your own personal matters and it is expensive. It may be necessary if family members disagree about your plans for yourself and they begin fighting amongst each other as to how best to care for you. Thus, the most effective way to avoid guardianship is to plan carefully and make sure your family knows exactly how you want your person and health to be managed.

VI. Ensure Your Post-Death Wishes Regarding Your Body are Followed

Organ, Eye and Tissue Donation

The Minnesota Uniform Anatomical Gift Act regulates the donation of body or organs, tissues, or eyes for transplant or research. Unless you state in writing that you do not want organ donation, your spouse or health care agent or other relatives, in order of preference can make the decision to donate your organs at the time of your death. You may make your wishes with regard to organ donation known on your health care directive, driver's license or Minnesota ID, make a written statement, or get on a donor registry.

- The University of Minnesota Medical School Anatomy Bequest Program has been developed to facilitate anatomical whole body donations to support medical research and education for health professionals. See www.bequest.umn.edu.
- The Mayo Clinic Section of Anatomy has a body donation program. See www.mayoclinic.org/body-donation.
- University of North Dakota School of Medicine Dept of Anatomy has a body donation program for Minnesotans in northwestern Minnesota. See www.med.und.edu/anatomy/deeded-body-program.cfm.
- University of South Dakota Sanford School of Medicine has a body donation program for Minnesotans in southwestern Minnesota. See www.usd.edu/medical-school/body-donor-program.cfm.

Funeral Planning

In Minnesota, you may name the person who you want to be in charge of your funeral and what happens to your body after you die in a Health Care Directive. If you want someone to plan and carry out your funeral instructions, but you think that someone in your family will object to that person or your wishes, you should fill out an Advance Funeral Directive. A written, signed and dated funeral directive will give the person you name the power to make the decisions, even if your spouse, children, parents or siblings do not agree.

VII. Ensure Your Post-Death Wishes Regarding Your Property Are Followed

Definitions

You must understand the following terms in order to decide how you want to plan for post-death distribution of your property, payment of your debts, and providing for your loved-ones.

- Last Will and Testament. A will is a document that directs the ownership of an individual's probate assets and personal property after death. In a will, you can give instructions as to who should get your property, how your debts should be paid, and you can appoint someone to take care of your minor children. You will also appoint a personal representative who will be in charge of carrying out your wishes.
- Probate assets. Those assets held in the decedent's name that do not pass automatically to another at death.
- Probate. A court procedure to determine ownership of a decedent's probate assets. The purpose of the probate procedure is to determine who is entitled to receive these assets. If there is no will, the probate court will determine the heirs of the decedent and distribute the assets according to state inheritance laws. If there is a will, the court will validate the will and distribute the assets according to the terms of the will.
- Non-probate assets. Those assets that will automatically transfer to another at death. If your assets are held jointly with another person, or if all of your assets have a beneficiary or "transfer on death" designation, then at your death there will be no need for probate. In Minnesota, all assets, including your house, can have beneficiary designations on them so that they pass automatically at death.



- Beneficiary Designation. Most retirement plans, annuities and life insurance policies let you decide who should receive your assets at your death. Each financial institution will have forms for you to complete. Beneficiary designations generally kick in immediately after death and override a will. You need to ensure that your beneficiary designations are up to date and correct!
- Joint Tenancy with Rights of Survivorship (JTROS). This designation provides that at the death of one of the owners, the surviving owners own the property. So, for instance if you own your home with your spouse in JTROS, then at the death of the first spouse, the survivor is the sole owner of the home. If you own the property jointly but as tenants in common instead of JTROS, then at the death of the first spouse, the survivor only owns one half of the property. The half that the deceased spouse owned will have to be probated to determine ownership! So, make sure you own your property in JTROS!
- Payable on Death Account. A payable on death account, also called an “in trust for” account or a “totten trust,” allows you to name one or more people to own your account automatically when you die, without having to go through probate. But during your lifetime, the named persons have no right to the account, their creditors cannot tie up the account, and they cannot make withdrawals or sign checks.
- Transfer on Death Deed (TODD). A TODD allows you to transfer your home or cabin or other real property to someone (the beneficiary) upon your death without going to probate. Once you die, the beneficiary will have to execute and record an Affidavit of Survivorship at the County Recorder’s Office and obtain clearance from the Minnesota Department of Human Services to determine the amount of money the Medical Assistance program has paid on your behalf, if any. Once that is done, the property will belong to the beneficiary. You can name more than one beneficiary.
- Affidavit for Collection of Personal Property. If the value of all probate assets is under \$50,000 and there is no real property, no probate is necessary. The person presumptively entitled to the assets or the Personal Representative named in your will may claim the assets by using an Affidavit of Collection of Personal Property along with your death certificate.

Who will make decisions for you?

Who May Make a Will?

Under Minnesota law, any person 18 years of age who is of sound mind may make a will. The will must be in writing, signed and witnessed by at least two individuals. The witnesses and the person making the will should make a statement under oath that the will was signed by the person of his or her own free will, and that the person is over the age of 18 and of sound mind and under no constraint or undue influence.



Should You Make a Will?

Yes. Even if all of your property can pass automatically at your death, you should have a will just to make sure your wishes are known in case something unforeseen happens (like the company loses the beneficiary designation or your named beneficiary predeceases you).

How Do You Avoid Probate?

Having a will or not having a will makes no difference as to whether an estate goes through probate. The question is whether the decedent had sufficient probate assets to make the probate process necessary. If the probate assets are over \$50,000, you will need a probate. If there is real property of any value that does not have a joint owner or a Transfer on Death Deed designation, your estate will have to be probated. You avoid probate by making sure that all of your assets have beneficiary designations or are jointly owned or you place all of your assets in a trust. In Minnesota, avoiding probate should not be the sole goal of your estate planning. Rather, protecting your heirs and ensuring your wishes are followed should be your goal. Sometimes, avoiding probate can be more expensive than going through probate! Talk to your lawyer about your situation.

VIII. Getting Assistance with Planning Ahead—Resources

Own Your Future

Go to www.mn.gov/dhs/ownyourfuture to get details about planning for meeting your long-term care needs. Own Your Future is a state sponsored initiative to help Minnesotans plan for future long-term care needs.

Long-Term Care Options Counseling through the Senior LinkAge Line®: A One Stop Shop for Minnesota Seniors

Call 1-800-333-2433 to get linked with an expert that can help you learn about and understand all of your long-term care options. Help is available by phone, in person and by live chat at www.MinnesotaHelp.info®.

The Senior LinkAge Line® can also help connect you to legal assistance for more complex legal planning issues. The assistance provided by the Senior LinkAge Line® is comprehensive and unbiased. There is no fee. The Senior LinkAge Line® does not sell any insurance or financial product of any type.

Legal Assistance

Some of the planning tools discussed in this book can be handled without legal advice. However, the law is complicated and laws change frequently. To get the results you want, it may be a good idea to get legal advice on your documents and plan. When looking for a lawyer, you may want to ask a friend, relative, banker, or accountant to suggest someone.

You may want to interview more than one lawyer before making a decision. Do not be afraid to ask about the cost. You can help your lawyer help you by following a few guidelines:

- Before you call a lawyer, gather and organize any written information you may have, and make a list of questions you want to ask.
- Ask for copies of all papers the attorney prepares for you.
- Do not sign any documents until you fully understand what you are signing.

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www.MinnesotaHelp.info

A comprehensive resource database with thousands of Minnesota long-term care resources available throughout Minnesota. The Long-term Care Choices Navigator is a long-term care support plan tool also found at www.MinnesotaHelp.info. Live Chat is also available on the site.

www.LawHelpMN.org

Assists with finding legal information in a variety of areas including family, housing, seniors, work, immigration and consumer debt. This is a web site of the Legal Services State Support, an association of seven Minnesota regional legal service agencies.



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The Minnesota Board on Aging and the Area Agencies on Aging provide the statewide Senior LinkAge Line®: A One Stop Shop for Minnesota Seniors.



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