



PLANNING AHEAD

**Who Will Make
Decisions For You?**

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Planning Ahead For Incapacity

This booklet is about the unthinkable: that someday you could become incapacitated and unable to manage your own affairs. But it can happen - and suddenly. A car accident. A stroke. Alzheimer's disease. Accidents, illness or disease can render you unable to manage alone. The greatest gift you can give to yourself and your loved ones is to plan for incapacity. That is, plan to ensure that your family and loved ones know how you want your affairs managed if you can't do it yourself.

■ If you are lost or are losing your ability to make or communicate decisions do you know:

- How your bills and money will be managed?
- Who will help you manage your affairs?
- How you can make sure you can live where you want?
- Who will make decisions about your health care?
- If your wishes will be followed?
- How you can protect yourself from people who try to take advantage of you?

■ How do you know when you've done enough planning ahead?

- How you will pay for nursing home care or home health care if you need it?
- What will happen to your property and your body when you die?
- How can you help a loved one who is losing the ability to take care of him or herself?

■ When should you plan for incapacity?

You should plan for incapacity now, before you need help and while you can still communicate and make decisions.

If you don't plan ahead, you run the risk that your health care or financial matters will not be handled the way you want.

■ Is it ever too late for you to plan ahead?

Yes. If you have lost the ability to make or communicate decisions or a judge has decided that you need someone else to make decisions for you, it is too late. However, it is important to remember that you have the right to plan ahead up to that point.

■ What will happen if you become incompetent and have not planned ahead?

If you lose the ability to make or communicate decisions and you did not plan ahead, a guardianship or conservatorship might be the only way to make sure your property, finances, and health care are properly managed.

Guardianship or conservatorship is a court proceeding. A judge appoints a guardian or conservator if the judge decides you are not competent to make your own decisions. This can be risky because family members may argue over who should be the guardian or conservator, and it can be very expensive and harmful to family relationships. Also, it can result in decisions being made by strangers who either do not know your wishes or simply do not follow your wishes. (For more information on guardians and conservators, see page 20.)

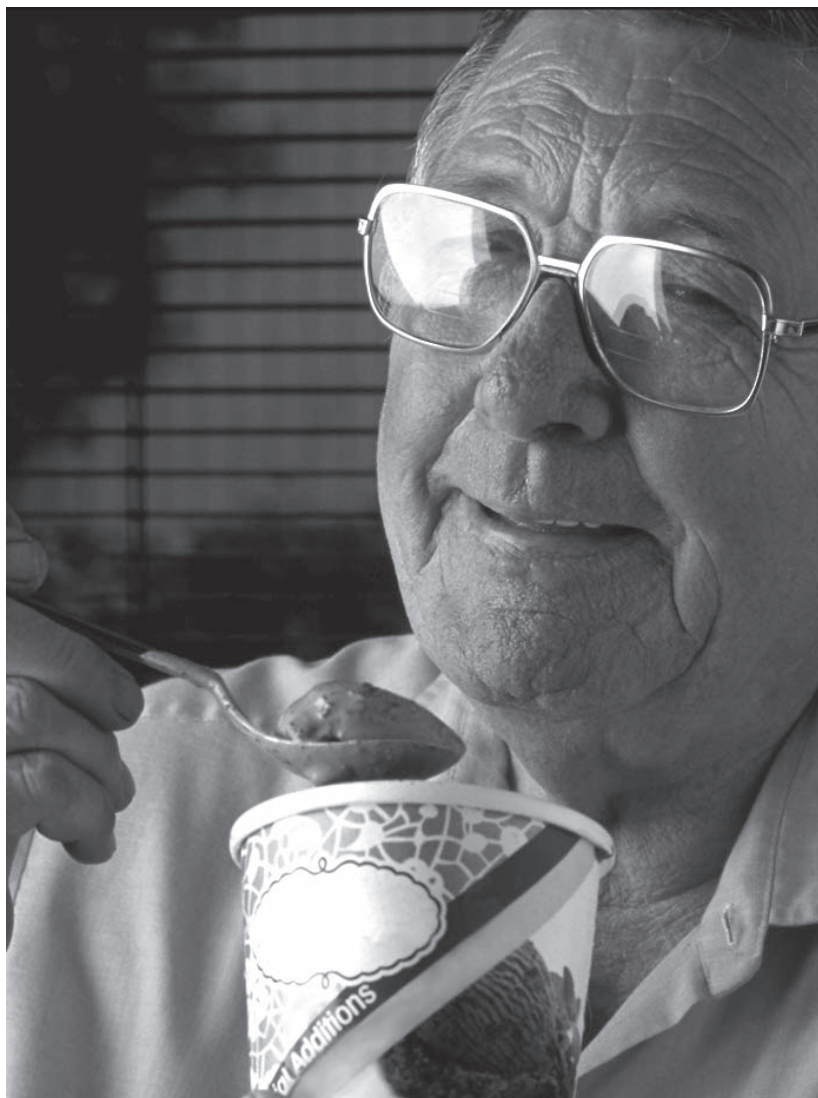
■ How can you plan ahead?

Fortunately, if you take time to think and plan ahead, there are many ways to make sure that your own wishes about the future will be followed. Some tools that can be used to plan ahead for incapacity are:

- informal arrangements with friends or family members
- representative payees
- banking assistance
- durable powers of attorney
- trusts
- conservatorships or guardianships
- health care directives

- understanding Medical Assistance and your health insurance options
- funeral planning
- understanding when you need to make a will

Each of these planning tools will be explained in this booklet.



Informal Arrangements with Friends or Family Members

■ Is it possible to plan for the future without formal legal documents?

Yes. Sometimes a person may need only a minimal amount of help such as check-writing, in-home care, or home-delivered meals in order to remain independent and safe at home. In these circumstances, no formal legal documents need to be drawn up. For example, you can have a son or daughter help with financial matters, have meals delivered, or have a personal care attendant come in and help you with bathing, cooking, or housecleaning. These sorts of informal arrangements allow you to get help and live independently while at the same time remain in control of your finances and decision making. Perhaps you need someone to help you with your finances. If you know someone you trust enough to talk with about your finances, that person can help you do things like write out checks to pay bills, file tax returns, and manage property. You can even hire someone to come to your house once or twice a month to help you. In this situation, you remain 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...with someone helping you.

You may also arrange for people to help you with things like grocery shopping, home-delivered meals, transportation, and cooking - or whatever else you need to remain independent. If you would like to have your situation assessed, you should contact Coordinated Home Services or Waivered Services at your local county human services agency or call a private home health agency. They can come to your home, assess your needs and give you a professional opinion about what sort of care and services are necessary for you to remain independent. Check what is available in your area: social service agencies, churches, assisted living, and community centers may have services and programs available to help you. Senior LinkAGE Line® is a statewide toll-free link to

community services that can provide information to you. Call Senior LinkAGE Line® at 1-800-333-2433 for more information.

Sometimes people make more risky informal arrangements. They give a loved one title to their house in exchange for a promise that 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 (see below). ***Never give your money or property to anyone as a tool to plan for capacity without first discussing the matter with your lawyer.***

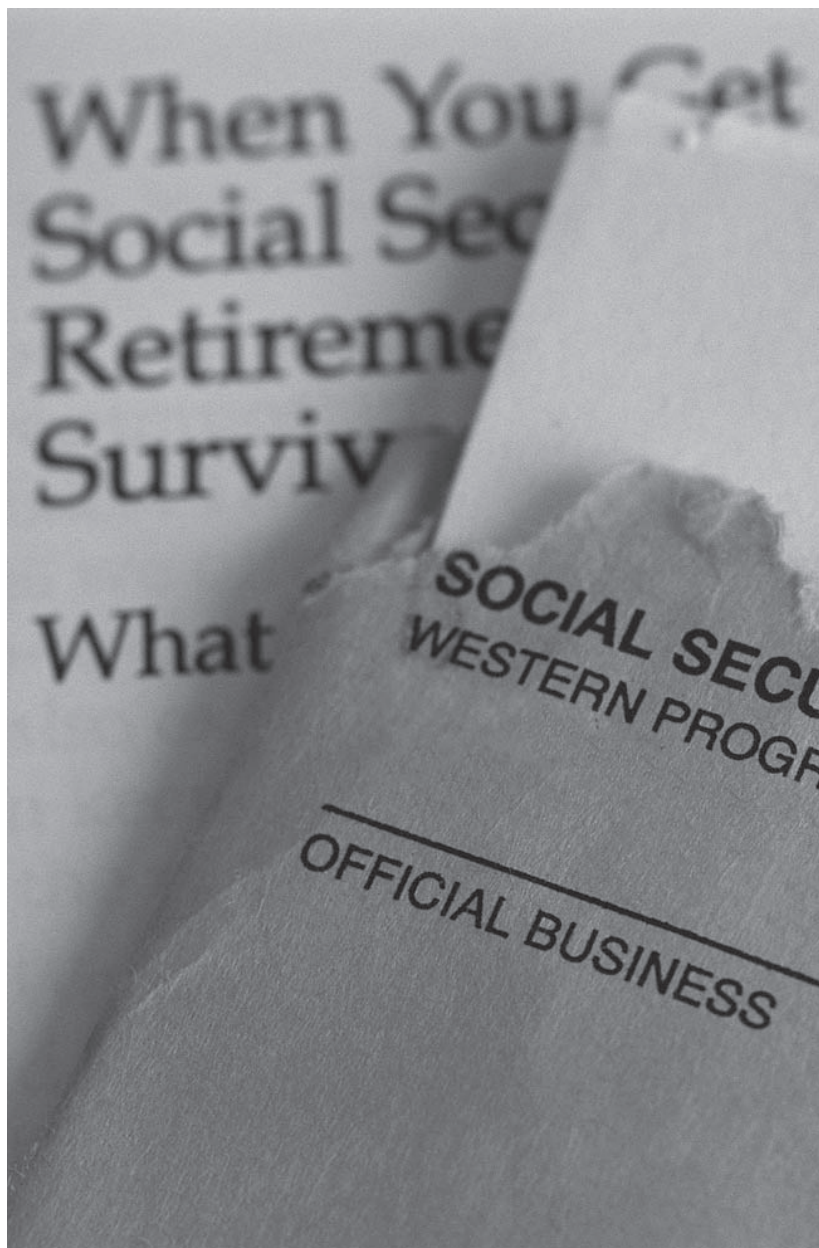
■ **Are there any risks in these kinds of arrangements?**

Yes. Without legal or written documentation, these are some of the risks:

- 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 they 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, the program that helps pay nursing home expenses.

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.

Because of these risks, it is a good idea to protect yourself with a back-up, that is, one of the following more formal arrangements/legal planning tools.



Formal Arrangements and Legal Planning Tools

■ Why make formal plans?

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 tool that best fits your needs.

Automatic Banking Or A Representative Payee

Modern banking technology can help people who are ill or homebound keep control of their money matters. You can ask your bank to arrange automatic bill paying, banking by mail or telephone, or special communication devices for the blind or hard-of-hearing.

Direct deposit is available for Social Security checks and some other pension checks. To arrange for your Social Security checks to be deposited directly to your bank account, call Social Security at 1-800-772-1213 and ask for a Direct Deposit form. Your bank will be able to help you make these arrangements

If your primary source of income is social security, and you have limited finances, you could also name someone your Representative Payee. The Representative Payee will receive your social security check, and will be responsible to see that your bills are paid and that you are able to purchase food and necessities with the balance. If you are interested in this, you should call your local Social Security office or 1-800-772-1213.

Adding A Name To Your Bank Account

You may also plan ahead by adding a trusted friend or relative's name to your bank accounts. By having access to your accounts, this person can help you sign checks, pay bills, or transfer money between accounts. There are several different types of multiple-

name bank accounts, each with different rules. You can have any type of account - savings, checking, certificates of deposits, etc - held in more than one name. You need to know which type is best for your needs and you must make sure that the bank gives you the type of account you request. Even bank employees can get confused about the different choices.

Such accounts are easy to setup, just by going to your bank. However, as will be explained below, ***you must be very careful*** about the type of account you choose, and about the person whose name you add.

These are the types of multi-party accounts:

■ **Joint account**

In a joint account, any person whose name is on the account is considered a co-owner of the account. Each person can make deposits and withdrawals without the other person's knowledge or consent. Generally, you should only use joint accounts with your husband, wife, or life-partner or for small accounts.

If you do want to set up a joint account with someone else and there is over \$10,000 in the account, you should talk with a lawyer first about gift tax and income tax laws as well as the risks.

There are a few risks and consequences to joint accounts:

- The other person could take advantage of you and withdraw all your money.
- 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.
- You could be temporarily disqualified from Medical Assistance, the program that helps pay nursing home costs, because adding a co-owner to your account is like giving away property.

- In a joint account, when one owner dies, the survivor automatically owns the account without having to go through probate.

■ Authorized signer account

If you are worried about some of the risks and consequences of the joint account, an authorized signer account, also called a convenience account or a power of attorney account, may be a better choice. In an authorized signer account, the person you name can make deposits and withdrawals and sign checks, but does not become an owner of the account. So, 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.

■ 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 (court). But during your lifetime, they have no right to the account; their creditors cannot tie up the account, and they cannot make withdrawals or sign checks. So this account is not a way to plan ahead for help with finances while you are alive. Rather, it is a way to give your property to loved ones after you die without having to go through probate.



Durable Power of Attorney

■ What is a power of attorney?

A power of attorney is a written authorization appointing 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. (This is not to be confused with attorney-at law. The attorney-in-fact does not have to be a lawyer.)

■ Why use a power of attorney?

You would use a power of attorney if you wanted some business transacted on your behalf and you were unable to do it yourself. For instance, you could authorize someone to conduct a business transaction if you were going to be out of town and unable to be present to conduct it yourself. Or, you could authorize someone to use your money to pay your bills or sell your home if you are physically or mentally incapable of doing it yourself.

■ What is the difference between a power of attorney and a durable power of attorney?

If the document states that the power will continue to be valid, even if the principal becomes incompetent, it is called a durable power of attorney. (An ordinary power of attorney ends when the principal is unable to make decisions or give directions. So, to use it for planning after you can no longer make decisions or give directions, it must be a durable power of attorney.)

If you do not want a durable power of attorney to go into effect until you become incompetent, your lawyer can be instructed to keep the signed document and deliver it to the attorney-in-fact only if you become incompetent. You could even instruct your lawyer on how to determine if you have become incompetent; for example, you could tell your lawyer to deliver the document only when your family doctor says that you can no longer handle your own affairs.

■ What kind of authority does the attorney-in-fact have?

The attorney-in-fact has whatever authority you grant him or her. You can grant 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 must be very careful who you appoint and what powers you give that person because he or she will essentially be standing in your shoes and able to transact business without your knowledge or consent. While the attorney-in-fact must 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.

■ How is a power of attorney created?

Any competent adult may create a power of attorney. It must be in writing and you must sign it in front of a notary public. It must be dated and should specify what powers are being granted. You can draw up your own document or use the Minnesota durable power of attorney short form, which can be purchased at any stationary store that sells legal forms. Most people use the short form because it is easy to complete. Simply mark an "X" after each type of power you want to give the attorney-in-fact.

But great caution is needed in completing the form - if you mark an "X" after 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 all your property to the **attorney-in-fact, himself/herself**. Sometimes there are valid legal reasons why a principal would want to give such broad power over his/her property; but such broad power could be misused, and you should not sign such a document without consulting your own lawyer.

■ How does the power of attorney work?

A power of attorney only works if it is accepted by third parties - that is, if persons and financial institutions believe that the durable power of attorney is valid and are willing to do business with the attorney-in-fact on behalf of the principal. While you are

not required to use the short form, (see above) if you do, any third party who is obligated to deal with you (banks where you have accounts, people who owe you money, etc.) must accept your durable power of attorney and deal with your attorney-in-fact.

■ **Should safeguards be put into a power of attorney?**

It depends. Every person's needs and circumstances are different. There are many different ways to write safeguards into a durable power of attorney to make sure that the principal's finances will be handled the way he or she intends. Even with the short form, some extra safeguards can be included. These are some of the safeguards you may consider:

- Require that the attorney-in-fact give an annual accounting to you and to your lawyer or an independent accountant 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.).
- It might be possible to get a surety bond on the power of attorney to cover the value of your property if it is stolen by the attorney-in-fact.
- Make sure that the trustworthy person you pick to be your attorney-in-fact is both willing and able to handle the responsibility.
- Consider also naming a successor to take over the responsibility if the first attorney-in-fact dies or becomes incompetent.

■ **How does a power of attorney end?**

A competent individual can cancel or revoke a power of attorney any time. 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 the recorder's office. If the principal becomes incompetent, the power can only be revoked by a guardian or conservator, if one is appointed for the principal. (See pp. 20).

Powers of attorney that are not durable end once the principal is no longer competent.

All powers of attorney automatically end when the principal dies. If you give a power of attorney to your spouse, it ends once you start proceedings for dissolution, separation, or annulment.



Trusts

■ What is a trust?

A trust is a legal arrangement where a person or financial institution, called the trustee, holds legal title and manages assets for the benefit of some person, called the beneficiary. The person who creates and funds the trust is called the grantor.

There are two types of trusts that serve two very different planning purposes.

- **Testamentary Trust:** If the grantor creates the trust in his/her will, to take effect after the grantor dies, it is called a testamentary trust. A testamentary trust can be an important estate planning tool in order to provide for loved ones after the grantor's death.
- **Living Trust:** A living trust (also called an inter vivos trust) is one that is created by a trust agreement during the grantor's lifetime. The grantor transfers ownership and control of his or her assets to a trust during his lifetime.

■ How long does a trust last?

You can determine how long it lasts depending upon whether you set up a revocable or irrevocable trust. A revocable trust can be changed or terminated by the grantor at any time as long as the grantor is still competent. However, an irrevocable trust cannot be changed or terminated after it is signed. For property management purposes, a revocable trust is normally used. Tax considerations may also be a factor in deciding whether to make the trust revocable or irrevocable, where a substantial amount of property is involved.



■ **Should a living trust be used to plan for incapacity?**

A living trust is sometimes used as a planning tool because it can be used to manage the grantor's property for the grantor's benefit during his or her life. However, if you have less than \$100,000 in assets, excluding your homestead, a living trust is generally not used. This is because, for most people, the costs and disadvantages of the living trust outweigh the benefits.

If you plan to use the living trust while you are alive to manage your affairs, these are the things you need to think about:

- While living trusts can be a very flexible and useful tool for planning for incapacity, they are expensive and generally only used for larger estates. There are legal fees for setting up the trust agreement, and then the trustee charges a fee for handling the property (often a minimum fee plus an annual percentage of the amount in the trust). Institutional trustees (such as banks or trust companies) will usually not accept a trust unless it has at least \$50,000 to \$100,000 in liquid assets, because the expense of maintaining the trust would be too great.
- While a family member or other individual could be named trustee (if you are sure that person is trustworthy), a fair amount of expertise is needed to handle the paperwork, tax returns, and property management tasks that may be involved. More importantly, some of the other tools mentioned in this book do the same thing, for less money and with less work.
- If you lose control of your assets while you are alive, to gain the advantages of a living trust, you must actually transfer ownership and control of your assets to the trust. Even title to your home should be put into the trust.
- Be on guard against anyone who uses high pressure tactics to sell you a living trust package. Do not deal with anyone who demands that you sign something right away or put up money before you have a chance to do more research. Some companies only want to sell their pre-packaged plans and they do not help you put your assets into the trust. These trusts can cause problems that will be expensive to fix.

One way to use a living trust to plan for incapacity that may not be so expensive is to set up the trust but not put any money or property into it (or to just put a small amount of money into it.) Then you also sign a durable power of attorney, instructing your attorney-in-fact to transfer your money and property to the trust only if you do become incompetent or incapacitated. This type of arrangement is often called a standby trust.

If you are considering using a trust, it is highly recommended that you contact a lawyer who is familiar with trust law.

Should a living trust be used to avoid probate?

In most cases, a living trust should not be used to avoid probate (processing a will through court.) Many people fear the expense and delay of probate and that is why they are looking for alternatives. However, in Minnesota, it is usually more costly to set up a living trust than to prepare and probate a will. There is often a high fee involved in preparation of the trust instrument, which is the document that sets forth the terms of the trust. A living trust is only effective if you transfer assets to the trust. Such transfers will usually involve the services of an attorney, especially where real estate is concerned. If the trustee is a financial institution, it will charge fees regularly for its services. Therefore, if you are worried about the expense of probate, a living trust will not help you.

Importantly, there are other ways, often less costly than living trusts, to avoid probate. For example, there is generally no need to probate real estate held in joint tenancy (such as your home owned in joint tenancy with your spouse or children) or joint or payable on death or "in trust for" bank accounts.

If a married couple own all their property jointly, there will usually be no need for probate when one dies - all the property will automatically belong to the survivor. The same is true for life insurance proceeds; they automatically go to the named beneficiary, without probate.

To make sure that your property is passed on according to your wishes in the safest, fastest, least expensive way possible, you should get qualified legal advice. And do not be afraid to compare prices. Lawyers can give you estimates of their fees for setting up a trust, and you can get estimates of trustee fees from the persons or institutions (such as a bank) that you are considering naming as trustee.

■ **Can a living trust be used to avoid paying nursing home costs?**

No. A living trust is considered an available resource under Medical Assistance laws and is not a way to avoid spending your savings on nursing home care. Other trusts may also affect Medical Assistance eligibility. The Medical Assistance laws are very complicated and are subject to change at any time. Do not try to use a trust without getting competent legal advice.



Guardianships and Conservatorships

■ What is a Guardianship and what is a Conservatorship?

A guardianship or conservatorship is a relationship between two people that the court creates to protect persons who are incapacitated and cannot handle their own financial or personal affairs. The court appoints one person (the guardian or conservator) to look after the financial and/or personal needs of another person (the ward or conservatee) who is incapable of managing his or her own affairs. Under Minnesota laws, guardianship and conservatorship are very similar, except that guardianship takes away more civil rights, such as the right to vote.

■ When is a conservatorship or guardianship necessary?

A conservatorship or guardianship is necessary when a person becomes incapacitated and unable to handle finances or live safely without help, and no arrangements have been made to take care of the person. The decision to obtain a guardianship or conservatorship should not be made lightly because it takes away the ward's or conservatee's most basic right - the right to make decisions about his or her own health and welfare. The court will appoint a guardian or conservator who will handle all of the ward's or conservatee's affairs, maybe even including where he or she will live.

Before a decision to request a conservatorship or guardianship is made, all other alternatives should be explored. For instance, you should review the options explained previously in this booklet. You can also call the Coordinated Home Services for Seniors and Disabled People program in your county to determine if the person is appropriate for nursing home placement or is eligible to receive home health services which could allow the person to remain living independently. You may also call Adult Protection to assess the situation to see if there are any alternatives.

■ **How is a conservatorship or guardianship established?**

By filing a petition with the Probate Court in the county where the person resides. Anyone can petition (ask) the court to appoint a conservator or guardian over a person who needs help. The potential conservatee or 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 an attorney. The court will order the county to pay these costs. The person requesting a guardianship or conservatorship must prove through clear and convincing evidence that such an order is necessary. This could be difficult if the proposed conservatee does not want a conservatorship established.

■ **Is there such a thing as conservatorship planning?**

Yes. Conservatorship planning, also called nomination of conservator, is a written document where you can name the person you want for your conservator, and give instructions on how you would want your personal and financial matters handled. For example, the conservator could be instructed how to manage your property, where you would like to live, and your wishes regarding your health. You may also name a conservator in your Health Care Directive (see below).

You should think about a conservatorship plan if it is likely that someone would challenge your less restrictive planning arrangements. For example, if you think there may be disagreements among your family regarding the plans you have made, you should use conservatorship planning as a backup to your other planning arrangements. By naming the person you choose to be your conservator, you have the best legal protection against the appointment of someone you do not want to be your conservator.

Health Care Directives

In 1998, the Minnesota Legislature passed a new law which takes the place of the living will and power of attorney for health care. This new law allows people to plan ahead for all their health care needs in one document. A Health Care Directive (HCD) is a written document by which a person (the principal) can appoint someone (a Health Care Agent) to make decisions about health care, organ, eyes and tissue donation, funeral arrangements, and other health care issues such as choice of providers (including where medical care will be received) when the principal is unable to make decisions for himself/herself. If you filled out a living will or power of attorney for health care before August 1, 1998, it is still valid, but it is wise to go ahead and fill out a health care directive.

■ 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 who you choose to make decisions for you.

■ What must a Health Care Directive include?

- It must be in writing
- It must be dated
- It must state the principal's name.
- The principal 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 HCD 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 help you make these decisions. It is very important that you talk to this person about being your health care agent before you appoint him or her. You must make sure that the person you want to appoint:

- wants to be your health care agent;
- understands your wishes; and
- will follow your instructions or act in your best interest.

■ What may be included in the Health Care Directive?

The principal may:

- appoint one or more agents or alternative agents and include instructions as to how decisions should be made and whether or not joint agents can act independently;
- state which nursing home he/she 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;
- 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 in the event of death;
- 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 his/her body in the event of death (burial/cremation);
- state instructions by a woman of child bearing age regarding how she would like her pregnancy to affect health care

decisions made on her behalf;

- make instructions regarding artificially administered nutrition or hydration;
- state under what circumstances the HCD shall 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?**

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 or when the principal authorizes the Health Care Agent to act in the HCD.

■ **What are the duties of the Health Care Agent?**

The health care agent does not have a legal duty to act. That is why it is so important that you talk with the person you have appointed to make sure they 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 HCD in good faith. The Health Care Agent should ensure compliance with the HCD and seek legal help in the event the doctor or health care provider will not comply with the HCD.

■ **Can the Health Care Directive be cancelled?**

Yes. The principal may cancel or revoke the HCD 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 HCD 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 HCD.

■ **Where should the HCD be kept?**

The Health Care Directive should be kept with personal papers in a safe place (not in a safe deposit box). 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.



Understanding Medical Assistance and Your Health Insurance Options.

- In the event you become incapacitated and are unable to handle your own affairs, you may have to receive home health care, nursing home care, assisted living, or rehabilitative therapies. It is very important that you understand the types of medical insurance that are available to you. While this is not the subject of this booklet, it is imperative that you understand a few terms regarding health insurance: **Medicare** is the insurance you get when you receive Social Security Disability (after two years) or Social Security Retirement benefits (at age 65). It is a federal program.

There are two parts to Medicare that cover different types of health care services. These are called Part A and Part B. Part A is free and Part B has a premium, which is deducted each month from your social security check.

Medicare pays for some home health care and 100 days of skilled nursing home care and rehabilitative therapies. It does not pay for prescriptions.

Individuals often purchase some type of Medicare Supplemental Policy (Medigap) to pay for co-pays and prescriptions. Medigap policies do not pay for long-term care services.

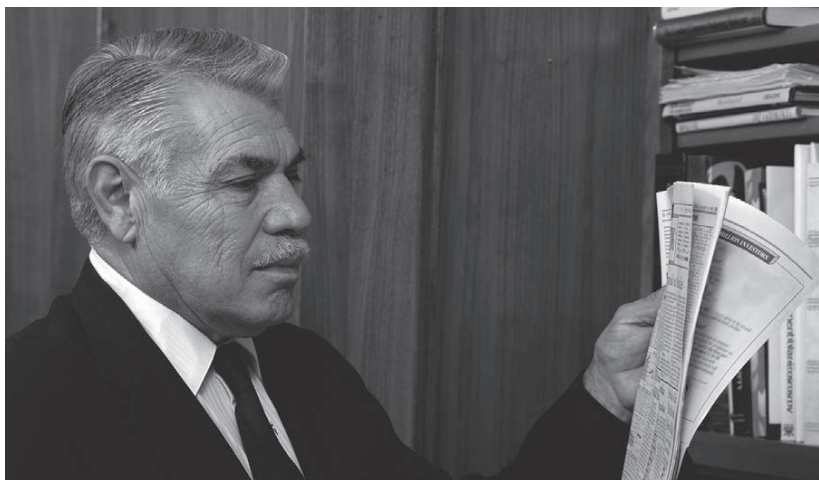
To learn more about health care coverage under Part A or Part B, you should contact the Senior LinkAge Line® at 800-333-2433 and ask to talk to a health insurance counselor.

- **Medical Assistance (MA)** is **Minnesota's Medicaid program**. It covers the cost of care for people who are low-income and have less than \$3,000 in non-exempt assets. This is the program that generally pays for home health care and for nursing home stays. There are many rules regarding eligibility for MA. You should consult a lawyer familiar with MA laws if you are going to need help paying for your medical care.

MA also has programs to pay for Medicare's co-pays and deductibles for eligible individuals. These programs are called **QMB** (Qualified Medicare Beneficiary), **SLMB** (Service Limited Medicare Beneficiary) and **QI** (Qualified Individuals) and are available through your county economic assistance office.

- Minnesota has several programs available to help low-income seniors. **The Minnesota Prescription Drug Program** pays for prescription drugs for individuals 65 years of age or older who meet income limits. Eligible seniors pay \$35 month for their drugs, and the program pays for the remainder of the individual's drug bills that month. **The Alternative Care and Elderly Waiver** programs help low income seniors at risk of nursing home placement, pay for home care services.
- **Long-term care insurance** will pay for the cost of nursing home care in certain specific instances. Individuals should be very careful when looking into long-term care insurance as it can be quite expensive.
- **Private health insurance** usually does not pay for long-term care. Read your policy carefully.

The Minnesota Senior Federation publishes a booklet each year entitled Health Care Choices for Minnesota Seniors. This book explains available programs and application and eligibility procedures in depth. Call the Senior Federation at 651-221-0559.



Funeral Planning and Organ, Eye and Tissue Donation

■ What is a funeral directive?

In 1997, the Minnesota legislature passed a law that allows you to appoint an agent to serve as the person entitled to control final disposition of your remains and to follow your instructions and wishes with regard to your funeral and burial arrangements. Prior to 1997, there was no way an individual could control who made the arrangements for his or her funeral, causing much consternation to loved ones. If you want someone to plan and carry out your funeral, and you think that someone related to you would object to that person carrying out your wishes, you should fill out a funeral directive.

■ What is the Uniform Anatomical Gift Act?

The Uniform Anatomical Gift Act allows you to donate your body or organs, tissues, or eyes for research or transplantation. If you do not make the gift, close relatives or a guardian or conservator or a health care agent may make an anatomical gift at the time of your's death, but only if you did not refuse to make an anatomical gift, while alive. Verification that you intend to make an anatomical gift may be indicated on your driver's license.

■ Do you need separate documents or is filling out the Health Care Directive enough?

Anatomical gifts and funeral arrangements may be included in the Health Care Directive. So, generally that may be enough. Both may also be included in an individual's will. However, since there may be question as to who has authority of an individual's body after death, the health care agent or the personal representative of the will, it may be wise to fill out all three documents. (Health Care Directive, Advance Funeral Directive, and Anatomical Gift designation). These forms can be purchased at an office supplies store, or contact an attorney for assistance.

When Do You Need a Will?

What is a will?

A will is a document that allows you to state to whom you want your property to go after you die. In a will you can also state who should have custody of your children in the event of your death. A will also allows you to decide who will be the personal representative of your estate (your power of attorney is invalid after your death.)

■ Does everyone need a will?

No. Everyone does not need a will. If all of your property is held jointly with someone, you do not need a will. If you do not have any property whose title needs to be changed by the court, you do not technically need a will. However, if you have a will, you will be assured that everyone knows to whom you want to leave your property (including jewelry, furniture, etc.) and they can go to court if necessary to divide it according to your wishes.

You do need a will if you have property that is in your name and only the court can change the title to the property (for instance, your home or other property not in joint tenancy.)

■ What happens if you die without a will?

If you die without a will, the state has inheritance laws that will determine how your property will be divided. Your property will go to your closest relatives. If you have a spouse and children, the property will go to them by a set formula. If not, the property will descend in the following order: your grandchildren, your parents, your brothers and sisters, or more distant relatives if there are no closer ones.

■ How do you decide if you need a will?

If you have any question about whether your property must go through probate or whether you need the court to decide an issue of ownership of property, or if you want to make sure your property goes to whom you intend it to go, you should see a lawyer. A lawyer will go over your estate (everything you own)

and help you draw up a will that fits your needs. It is not recommended that you prepare a will without a lawyers help.



Getting Legal Advice

Some of the planning tools discussed in this book can be handled without legal advice. However, there are many nuances in the law and laws change yearly. Therefore, it is always wise to seek legal counsel to ensure that your plan and documents are correct and will give you the results you want. When looking for a lawyer, you may want to ask a friend, relative, banker, accountant, or pastor to suggest someone.

Or you can call:

Minnesota State Bar Association
Attorney Referral Service
1-800-292-4152

You may wish to interview more than one lawyer before making a decision. Never hesitate to discuss fees with your lawyer.

You can help your lawyer help you by following a few guidelines:

- Before you call a lawyer, to gather and organize any written information you may have, and make a list of questions you intend to ask.
- Request copies of all materials prepared on your behalf.
- Do not sign any documents until you fully understand what you are signing.



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