

WHY IS INCAPACITY PLANNING IMPORTANT?

“Estate planning can be viewed as a purely financial endeavor. When you plan your estate, you state your final wishes with regard to the way that you want your monetary assets transferred to your loved ones after you are gone.”



Undoubtedly, this is a very big part of the equation, and monetary matters are indeed at the core of estate planning. At the same time, a comprehensive estate plan will also address the eventualities that you may face toward the end of your life.

Impact of Aging

When you reach an advanced age, the prospect of incapacity becomes very real, and people are living longer and longer lives. A study was conducted by the Census Bureau a while back, and it found that the segment of the population that was between 85 and 94 years of age grew faster than any other ten-year age grouping between the years 2000 and 2010.

If you go to the Social Security Administration website and plug in your age, you can find out your life expectancy. Using the tool, we have found that it is likely that you will live until you are at least 85 if you are fortunate enough to celebrate your 67th birthday.

Clearly, people who are in their mid-eighties can certainly become incapacitated in one way or another. There are various different causes of incapacitation, but Alzheimer's disease is the leading threat.

The Alzheimer's Association is a fantastic source of information about this horrible disease. According to their website, around 45 percent of people who are 85 years of age and older are suffering from the disease.

Alzheimer's disease causes dementia, and people with dementia are typically

going to become unable to make sound decisions on their own at some point in time.

Decision Making

If you were to become incapacitated late in your life, who would make decisions on your behalf? This is a question that you should take seriously, because the answer to it is in your own hands.

The state could be petitioned to appoint a conservator to take over your affairs if you do nothing to prepare for possible incapacity. This can be a disconcerting prospect, because you would lose control of the selection process.

Plus, members of your family could disagree with regard to the appropriate course of action. This can create disharmony during a time when family members should be coming together to support one another.

To prevent a conservatorship, you can make take matters into your own hands through the creation of the appropriate incapacity planning documents. One of them is a durable financial power of attorney.

With a durable financial power of attorney, you name an agent or attorney-in-fact. This individual would be empowered to handle your financial affairs if you were to become incapacitated.

Advance directives for health care should also be part of your incapacity plan.

With a durable power of attorney for health care or health care proxy, you can name someone to make medical decisions on your behalf if you ever become unable to communicate them yourself.

A living will should also be part of the plan. You use this type of will to state your wishes with regard to the utilization of life-sustaining measures like feeding tubes, artificial hydration, and mechanical respiration. When you have a living will in place, doctors would be compelled to honor your wishes.

Summary

There are certain contingencies that you may face when you reach an advanced age, and people are routinely living into their eighties and beyond during our current era. Incapacity is not uncommon, with Alzheimer's disease being a leading culprit.

If you do not take any steps in advance to prepare for possible incapacity, the state could take over, and this is not a very appealing proposition.

Fortunately, if you execute the appropriate incapacity planning documents, you can state your life-support preferences. You could also name hand-picked decision-makers to handle your financial and medical decisions making in the event of your incapacitation.

If you are ready to take action, reach out to a licensed estate planning attorney in your area. Your lawyer will explain things to you in detail, answer all of your

questions, and help you put a plan in place if you decide to go forward.

References

American Bar Association

http://www.americanbar.org/content/newsletter/publications/law_trends_news_practice_area_e_newsletter_home/durablepowerofattorney.html

Alzheimer's Association

<http://alz.org>

About the Author



Attorney Caprice L. Collins is a top rated Harvard Law School graduate. She has 38 years of legal experience with a successful law practice devoted exclusively to Estate/Business Planning and Trust Administration. Attorney Collins is a well-respected keynote speaker on Wills, Living Trusts, Estate Planning, Business Planning and Trust Administration. She has appeared on California's Real Estate Radio Station KTLK AM 1150 as a legal expert on Estate Planning and Living Trusts among many other notable media appearances.

Attorney Collins has substantial experience in Estate Planning for high net worth individuals using Family Limited Partnerships and other business entities to provide Asset Protection to their families. She has assisted organizations in their fundraising efforts by authorizing articles for their publications and conducting free seminars to their donors on advance Estate Planning Strategies such as Charitable Remainder Trusts, Family Living Partnerships, Irrevocable Life Insurance Trusts and Qualified Personal Residence Trusts. She also provides FREE Seminars on Living Trusts, Asset Protection and Business Planning to civic, faith-based, professional and business organizations.

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