

Disability is age non-discriminatory. It results from accident, age, disease and/or illness. There are two estate planning documents, (which cannot be combined), that provide protection in the event of future disability. These are an Advance Health Care Directive and a financial Power of Attorney.

What does an Advance Health Care Directive do?

An AHCD is a document in which a person names a health care agent to make medical decisions if they are no longer able to do so and states end of life decisions.

Does this prevent the appointment of a guardian of my person?

Yes, if properly drafted and followed, this document can prevent the appointment of a guardian of your person. The healthcare agent is making the same decisions a guardian of person would be responsible for.

Among other information, an AHCD should include:

- A health care power of attorney which appoints health care agent(s) to make medical decisions if you become unable to do so,
- Health care instructions concerning your desired medical care/treatment and end of life instructions,
- A HIPAA declaration/release,
- A pregnancy statement for women of child bearing age, and
- A statement concerning anatomic donation.

I have a Living Will. Do I need an ("AHCD")?

Yes. A Living Will only contains instructions for the provision, withdrawal, or withholding of life sustaining procedures. It does not appoint a health care agent.

Is my spouse protected under my AHCD?

No. Each spouse needs their own document.

Do I need a financial Power of Attorney, ("POA")?

The person(s) named as your financial agent is called an Attorney-In-Fact, ("AIF"). In the event of your future disability, the AIF collects your income, pay bills, and protects/manages all of your property and affairs. They are able to act for you within the powers granted in the document.

How can I prevent the appointment of a guardian of my property?

Most adults need a POA. If properly drafted and followed this document should provide you with financial protection. The AIF is making the same decisions a guardian of property would be responsible for.

Can my AIF undertake any financial action for me?

No. The AIF's authority is limited to:

- Your financial matters and the authority or powers expressly stated in the document.
- If you sign a POA from a specific financial institution or government agency (such as the IRS), that document is only valid with the issuing entity.

Among other powers the POA should be broad enough to allow your AIF to undertake your banking, to hire other agents, to sign your tax returns, to engage in tax or Medicaid planning and because your AIF may need to access health care bills, should also contain a HIPPA declaration/release.

Who should draft an AHCD and POA?

Because of the complexities involved, these documents should be prepared by an attorney experienced in estate planning and elder law. It is not recommended that other professionals draft these documents or that you use a form purchased from an office supply store or online.

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