

Planning for a long life

Not many years ago, the typical retirement age, 65, was viewed as the onset of old age. Today, gerontologists define matters differently: If you're between the ages of 65 and 74, you are one of the "young-old." To be considered "old", you need to be in the 75-to-84 age bracket. After that, you're known, demographically, as the "oldest-old."

Simply put, your chances are good that you are going to live many years in retirement. But will they be healthy years?

Who assumes responsibility?

If illness or injury strikes, you want to know that there is someone on hand to manage the day-to-day finances and your investments.

Your spouse might want to assume the responsibilities. However, that may be an unreasonable burden if he or she is also responsible for being your caregiver. And, of course, there is the question of his or her health. A long-term plan needs to take into account the fact that a spouse might not be alive or healthy when he or she is needed.

Single people face similar questions. They may not want to burden children or grandchildren with their finances and their care. Is there even family close by able to take on the responsibilities?

When you don't take action

If you have not done any planning beforehand, and you become disabled, legal proceedings may be necessary in order to have someone step in and take over for you. A guardian will have to be named to manage your assets. It's not hard to come up with a list of serious disadvantages to this scenario.

First, the process can be protracted and expensive. Second, because the legal proceedings are a matter of public record, you and your family may be exposed to unwanted publicity. Finally, and most important, because you may not be able to make your wishes known, the person whom you would want to handle your financial affairs may not be the person chosen by the court.

As a result, your financial assets may be put at risk. Decisions may be made by individuals not in the best position to make them. Indecision or lack of attention may have the same negative impact on your income, your asset base or both.

One plan: a durable power

A *durable power of attorney* is a legal document in which you give someone the authority to act on your behalf in the circumstances that you designate. Although a regular power of

attorney lapses in the event that you become mentally incompetent, a durable power remains in effect.

The authority that you grant to your “attorney-in-fact” can be as sweeping or as narrow as you wish. The power to pay bills, collect debts, prepare tax returns, borrow funds, purchase insurance and fund a trust are among the most common powers granted. Parents who want to take advantage of the federal annual gift tax exclusion and make gift-tax-free transfers to children and/or grandchildren of up to \$12,000 in 2008 should spell out that authority in the durable power-of-attorney document.

A durable power of attorney can be an effective tool. Unfortunately, some institutions require that the power be executed on their particular form—simple if you’re in good health, perhaps impossible if you’re incapacitated. Then, too, over several years a question of the validity of the durable power may arise.

A comprehensive plan: a living trust

For long-term financial and estate management, give consideration to a *revocable living trust*. This arrangement offers you comprehensive protection that can last as long as it is needed.

You can create a living trust now. The agreement is revocable—you can make changes at any time, even cancel it if the need arises. Initially, the agreement calls for you to retain full control over all investment decisions regarding the assets in the trust.

The trustee’s responsibilities may, if you wish, be limited to everyday investment chores and recordkeeping duties. If you become incapacitated, or upon your request, the trustee will assume full management of your assets, acting as you have directed in the trust agreement. In addition to handling your investments, the trustee’s responsibilities may be extremely wide-ranging. You may authorize your trustee to use trust income to employ household help, hire nurses and even pay your monthly bills.

Q&A on Advance Directives

While you are doing your planning, you also may want to consider creating an advance directive regarding your future medical care.

What are Advance Directives?

- “Advance directive” is a general term that refers to your oral and written instructions about your future medical care, in the event that you become unable to speak for yourself. Each state regulates the use of advance directives differently. There are two types of advance directives: a living will and a medical power of attorney.

What is a Living Will?

- In a living will you put in writing your wishes about medical treatment should you be unable to communicate at the end of life. Your state law may define when the living will goes

into effect and may limit the treatments to which the living will applies. Your right to accept or refuse treatment is protected by both constitutional and common law.

What is a Medical Power of Attorney?

- A medical power of attorney enables you to appoint someone you trust to make decisions about your medical care if you cannot make those decisions yourself. This type of advance directive may also be called a “health care proxy” or “appointment of a health care agent.” The person you appoint may be called your health care agent, surrogate, attorney-in-fact, or proxy. In many states the person whom you appoint is authorized to speak for you at any time you are unable to make your own medical decisions, not only at the end of life.

Do I need an Advance Directive?

- It’s a matter of personal choice. There are many benefits to creating advance directives. They give you a voice in decisions about your medical care when you are unconscious or too ill to communicate. As long as you are able to express your own decisions, your advance directive will not be used, and you can accept or refuse any medical treatment. But if you become seriously ill, you may lose the ability to participate in decisions about your own treatment.

What laws govern the use of Advance Directives?

- Both federal and state laws govern the use of advance directives. The federal law, the Patient Self-Determination Act, requires health care facilities that receive Medicaid and Medicare funds to inform patients of their rights to execute advance directives. All 50 states and the District of Columbia have laws recognizing the use of advance directives.

If you are interested in finding out more about advance directives and the laws governing them in your state, the not-for-profit organization Partnership for Caring has a Web site at <http://www.partnershipforcaring.org>, or you can call them at 1-800-989-WILL.

Taking action

It’s important to make your plans while you’re able to do so. Talk over the issues presented here with those closest to you, as well as with your financial and legal advisors and an institution such as ours, experienced in establishing living trusts for our clients.

© 2008 M.A. Co. All rights reserved.

Any developments occurring after January 1, 2008, are not reflected in this article.