

WHY DO I NEED A NORTHERN CALIFORNIA DURABLE POWER OF ATTORNEY?

“Everyone should have an incapacity plan in place. If you are ready to take action, contact an estate planning attorney in your area to set up an appointment.”



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When you think about the process of estate planning, financial matters are probably going to come to your mind. Without question, you do facilitate postmortem asset transfers when you plan your estate. There are various different ways of going about it, and the optimal course of action will depend upon the circumstances.

At the same time, people often experience a period of decline before they pass away, so your estate plan should also address end-of-life issues.

INCAPACITY PLANNING



A well constructed estate plan should include an incapacity planning component. Though it may not be a very pleasant subject to contemplate, a very significant percentage of elders become unable to communicate sound decisions at some point in time.

There is physical incapacitation that can strike shortly before death, but mental incapacitation can also enter the picture. While there are other causes of mental incapacitation, Alzheimer's disease is the leading threat.

We have all heard of Alzheimer's disease, but when you look into the details, you may be surprised at what you find. This disease is quite common among the oldest old. (This is a term that is used within the geriatric community to describe people who are at least 85 years of age.)

If you would like to obtain some in-depth information about Alzheimer's disease, you may want to visit the Alzheimer's Association website. This organization does a lot of fantastic research, and according to their site, around 45 percent of the oldest old are suffering from Alzheimer's disease. This is a very significant figure, and remember, there are other causes of incapacitation.

There is another statistical reality that is quite relevant here: lifespans are increasing.

There is a census conducted every 10 years in the United States, and the Census Bureau uses the compiled data to track demographic trends. According to the Census Bureau, between the years 2000 and 2010, the segment of the population that was between 85 and 94 years of age grew faster than any other ten-year age grouping.

To underscore the point, the Social Security Administration tells us that you will probably live into your eighties if you are fortunate enough to celebrate your 65th birthday.

When you put all of these statistics together, you can see why incapacity planning is something that everyone should take seriously.

DURABLE POWERS OF ATTORNEY

If you want to put an incapacity plan in place, you may want to execute legally binding documents called durable powers of attorney. To clarify, a regular power of attorney that is not durable would no longer be in effect upon the incapacitation of the grantor, but a durable power of attorney would remain in effect. This is why you would want to use durable powers of attorney to prepare for possible incapacitation.



You may want a particular person to handle your financial affairs if you become incapacitated, and you may prefer a different health care representative. Under these circumstances, you could create a durable financial power of attorney to name an agent to manage your financial affairs, and you could include a durable power of attorney for health care to name a medical decision-maker.

When you execute durable powers of attorney, you choose your own hand-picked representatives. If you do nothing to prepare for incapacity, and you do become unable to make sound decisions on your own, the state could appoint a conservator to act on your behalf. Most people would rather keep the state out of it, and you can prevent a conservatorship if you have your durable powers of attorney in place.



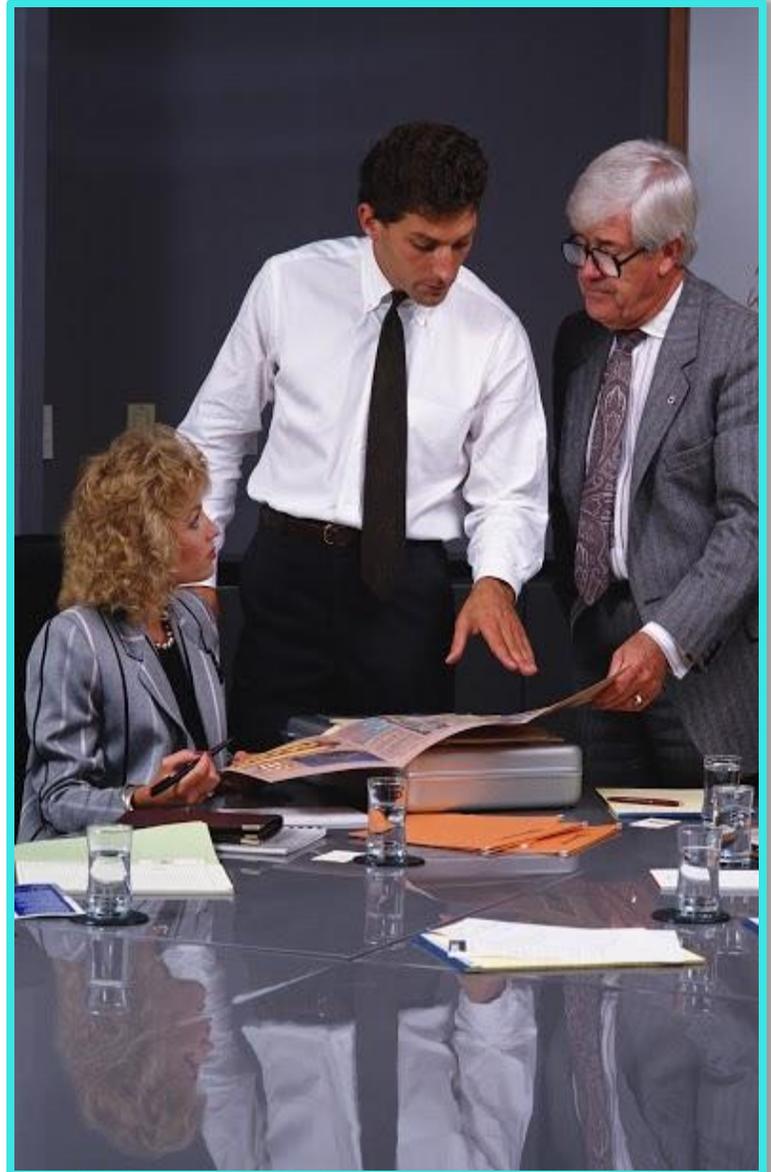
SUMMARY

We have looked at a few questions that revolve around long-term care costs in this paper. As you can see, these expenses loom large for seniors.

Elder law attorneys provide solutions, and resources can be preserved if a well-constructed plan is executed in the optimal manner. The ideal course of action will vary depending on the circumstances, and this is why personalized attention is key.

We have focused on long-term care here because it is such an important issue, there are other elder law matters to address.

If you would like to discuss your concerns with a licensed professional, make an appointment with an experienced and qualified elder law attorney. You can reach out to an attorney near you if you are ready to take action.



REFERENCES

United States Department of Health and Human Services
www.longtermcare.gov

Genworth Financial
<https://www.genworth.com/corporate/about-genworth/industry-expertise/cost-of-care.html>

Social Security Administration
<http://www.ssa.gov/retire2/credits1.htm>

About the Author



Timothy P. Murphy

Timothy P. Murphy is an estate planning and elder law attorney whose practice emphasizes helping people to build, preserve and pass on their wealth. He works with his clients to accomplish their goals while avoiding unnecessary court proceedings and minimizing or eliminating exposure to death taxes. Mr. Murphy also assists families facing the myriad of problems associated with dealing with a loved one's declining health and rising needs for care. He has practiced law in the Sacramento area for over 32 years, first with a large firm, and then with his own firm since 1987.

Tim has written a regular column on legal issues for Senior Magazine. He also was a regular featured guest on the Money Experts radio program heard locally on KFBK (AM 1530). Tim has been featured in the Sacramento Bee, Sacramento Business Journal, Sacramento Magazine, Comstock's Magazine and other publications on estate planning and related topics. He also assisted local Channel 3 (KCRA) in an investigative report on the trust mill problem in the Sacramento area and was featured on Channel 10 (KXTV) in its series on personal financial planning.

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