

# Planning For Long Term Care

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If you or a member of your family has been diagnosed with a medical condition that is likely to progress over time, or if you are just getting older, you need to plan ahead to help to ensure that you get the best possible care when you need it. Many opportunities are available for aging individuals to obtain supportive services at home, or in a home-like rather than medical setting. While some limited services may be covered by Medicare, most services require you to undertake a significant financial responsibility. And, you are at a stage in your life where you definitely need to plan for a time when you may need help in making financial and health care decisions. If you have not already done so, now is the time to act to protect your resources and to protect yourself and your loved ones in the event of incapacity. Although it is never too late to plan, the sooner you start to explore your options, the more options are available to you.

## PROTECTING YOUR ASSETS

While the cost of care at home or in a home-like setting such as an assisted living facility is lower than the cost of a nursing home, often the monthly cost is greater than your monthly income, forcing you to spend down your savings, or rely on your family for help. Our firm will work with you to answer the following questions:

- How will you pay for the care you may require?
- Will you have sufficient assets to afford care on a long term basis?
- Can you qualify for any public or private assistance program to help pay for your care?
- What if down the line you need nursing home care? What can you do to ensure a good placement if the time comes for a move?
- What are the eligibility rules for Medicaid, VA, and Social Security programs?
- How can you make sure that your family is protected?

**You may be surprised to learn that in many cases, by planning ahead, it is possible to retain substantial assets and still qualify for Medicaid and Veterans benefits. It is very important before or upon embarking on a treatment plan to begin careful planning for the future with an elder law attorney.**

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## PROTECTING YOURSELF IN THE EVENT OF INCAPACITY

**It is critically important to take steps to ensure that if the time comes when you are not physically or mentally able to make your own decisions about your finances and health care, you have designated someone to speak for you.** By planning ahead, you will have the opportunity to control your own future, keep your personal affairs private, and save legal fees by avoiding guardianship proceedings.

**Our office can work with you to prepare the four essential planning documents that no person over the age of 18 should be without:**

- **Durable Power of Attorney**

A Durable Power of Attorney is a legal document in which you appoint another person (your “attorney in fact”) to act for you in financial matters when you are unable to act for yourself due to mental or physical incapacity. Your attorney-in-fact can manage your money and your real estate, pay your bills, hire and fire professionals for you, sue someone on your behalf, sign legal documents, apply for benefits for you, make gifts, and transfer your assets as part of a plan to become eligible for Medicaid benefits. The person you appoint must always act in your best interest and try to make choices you would make if you were able to do so.

- **Health Care Proxy**

Similar to a Power of Attorney, a Health Care Proxy is a legal document in which you appoint another person (your “agent”) to make medical decisions for you in the event you are incapacitated (for example, unconscious or too ill to communicate). Unlike a power of attorney, the Health Care Proxy does *not* take effect until your doctor determines that you are incapable of making or communicating health care decisions yourself. Before then, your agent may make no decisions on your behalf. As with the Power of Attorney, your agent must act in your best interest and make choices that you would make if you were able.

- **Living Will**

In your Health Care Proxy, you pick the people you want to speak for you if you are not able to speak for yourself. In a Living Will, you give them the words to say. A living will is a statement to your doctors and family members giving guidance on what your wishes would be when you have reached the very end of your life. In Massachusetts, a Living Will is not legally binding. However, it is a moral mandate and can be helpful and instructive to your family members confronting emotionally difficult choices. It provides clear and convincing evidence of your wishes at a time you are unable to speak, and can help to relieve the heavy burden—and guilt -- that making these choices can place on your family.

- **HIPAA Release**

The 2004 Health Insurance Portability and Accountability Act (“HIPAA”) has made health care providers gun shy about sharing any “protected health information” without explicit authorization. In a HIPAA Release, you can authorize access for specific family members to participate in your care and have access to your information even if your Health Care Proxy has not been triggered.

**These documents are very powerful and versatile tools and should be carefully crafted to reflect the needs and concerns of each individual.  
Together, they can ensure that your wishes will be honored.**

*The first step is up to you. Make an appointment for your legal review.*