

**PLANNING FOR INCAPACITY:
DURABLE POWER OF ATTORNEY- ASSETS
AND ADVANCED HEALTH CARE
DIRECTIVES**

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Power of Attorney for Finances

- What is it?
- Do you need a Power of Attorney?
 - Trust
 - Will
- Durable vs. Non-Durable
- General vs. Limited
- Immediate vs. Springing

Types of Power of Attorney

- Pre-Printed
- Statutory (Probate Code §4400)
- Attorney Drafted
- Combination
- Proprietary

Selecting an Agent

- Spouse, adult children, relative
- Friend
- Professional Advisor
- Working with your Trustee
- Successor Agents

Other Issues

- Execution (notarization)
- When to record
- Financial Institution Acceptance
- Termination/Revocation
- Potential for Misuse

Advanced Health Care Directives

- Purpose
- Considerations in Drafting
 - Agent
 - Organ Donation
 - Burial/Cremation
 - Nominate Conservator
 - Placement

Selecting Your Agent

- Children
- Private Professional
- Medical Knowledge
- Religious Beliefs of Agent
- Proximity (Availability and Willingness)

Types of Advanced Health Care Directives

- Statutory Form (Probate Code §4701)
- California Medical Association Form
- Attorney Drafted
- Combination

Drafting Consideration

- How Specific
- End of Life Issues
- POLST
- Talk to your Agents
- HIPAA

Authority of Agent

- Medical Decisions
- Personal Care
- End-of-Life
- Burial

How to Sign the Document

- Witnessed or Notarized?
- Skilled Nursing Facility (ombudsperson)

How Will They Know Who to Call?

- Wallet Cards
- Oral Appointment
- One Time Only Form
- Registration
 - State
 - DocuBank

What it May Not Do

- HIPAA
- DNR
 - Different form signed by physician (or in POLST)
- Personal Care
- Does Not Cover Finances

Conservatorships

- What is a Conservatorship
 - Person
 - Estate
- Bond
- Court Supervision
- Cost \$\$\$\$\$

Why Would I Need One??

- No Estate Planning
- Non-Compliance
- Fighting Family
- Protection of Bond
- Protection of Court

Who Should Be My Conservator?

- Person Nominated by You
 - AHCD or DPA or Separate Document
- Family Member
- Professional Fiduciary
- Public Guardian