



## **YOU MAY BE YOUNG BUT YOU ARE STILL AT RISK**

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The possibility that we may suffer a catastrophic injury in a car accident or suffer from a sudden serious illness that leaves us physically or mentally incapacitated is not something many of us give much thought to. While many consider it morbid to plan for such events, the reality is that it does happen regardless of age, health or wealth.

While few would deny the importance of incapacity planning for seniors who face the risk of developing Alzheimer's disease or dementia, there are many reasons that younger adults should engage in estate planning to prepare for future incapacity.

### **1. Management of Financial Affairs**

When you are unable to pay your mortgage, pay your bills, manage your business or execute contracts for pending transactions, the damage to your personal finances or small business can be devastating if someone is not available to protect your financial interests. A *Financial Power of Attorney* can ensure that vital financial matters are handled during your incapacity so that your credit, assets and business are protected.

When you appoint an agent to manage your financial affairs during incapacity under a financial power of attorney, there is an enormous amount of flexibility. The grant of power can be extremely broad authorizing the person to sign contracts, purchase or sell assets, pay expenses, file taxes, conduct banking activity... essentially stepping into your shoes financially. By contrast, you can limit the appointed agent to certain urgent financial matters or even a single transaction.

### **2. Controlling the Scope of Extraordinary Medical Care**

The concept of personal dignity in the face of advancing medical technology has focused attention on the autonomy of individuals to define the scope of acceptable medical treatment. The impact of such decisions was focused in the national debate

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over the fate of Terry Shaivo. For a decade and a half, the parents and husband of Ms. Shaivo fought in litigation over whether to discontinue life-support in the form of a respirator and artificial feeding tube. Because Ms. Shaivo had not executed a ***Living Will***, there was no clear indication of Ms. Shaivo's wishes. The cost of medical care and litigation expenses in such a case can decimate your financial estate not to mention the financial security of your loved ones. Proper North Carolina Estate Planning can prevent the animosity, cost and uncertainty facing loved ones in this situation while also protecting your personal dignity, religious beliefs and personal wishes.

### **3. Decisions Authorizing Medical Treatment and Diagnostic Tests**

While a medical provider may be able to make decisions about medical tests and treatment in a life-threatening emergency, most people would prefer to have someone to whom they share a close emotional and family bond make such decision with advice from medical professionals. A ***HealthCare Power of Attorney*** is like a financial power of attorney except that it empowers an agent to make medical rather than financial decisions during your incapacity.

### **4. Authorizing Access to Medical and Insurance Information**

The Health Insurance and Accountability Act (HIPPA) protects patients from having their medical information disclosed by hospitals, medical providers and health insurance companies. However, this can lead to unintended consequences because your spouse, children or other loved one's may not be able to obtain critical information about your medical condition, test results or medical coverage. An experienced Charlotte Estate Planning Attorney will include the appropriate language in a Health Care Power of Attorney to give your agent authority to have access to this information if you are mentally or physically incapacitated.

These are merely a few reasons why incapacity planning should not be put off. Planning for your incapacity does require considering events that no one really wants to imagine could actually impact his or her life.

We understand that every client we see has unique needs, goals and concerns. Regardless of your particular needs we can customize the best incapacity plan for your individual situation.

If you have estate planning questions in Charlotte or elsewhere in the surrounding areas of North Carolina we invite you to call us at (704) 843-1446 or email Sabrina Winters at [swinters@sabrinawinterslaw.com](mailto:swinters@sabrinawinterslaw.com) to learn how we can help customize a plan for you.

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