

# Advance Directives for Healthcare and Property

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Legal Services of Northwest Minnesota



## *Advance Directives*

Advance Directives must be completed before incapacity

Incapacity – "physical or mental *inability* to do something or to manage one's affairs"

What are  
these 2  
documents?

Health Care Directive-is for  
making medical decisions  
*when you become  
incapacitated* and cannot  
make your own decisions

Power of Attorney for  
finances-allows another  
person to make decisions  
and take action regarding  
your money and property

# Overview

Both are legal documents created by state law



Documents must comply with state law

# Health Care Directive (HCD)

A legal document you must do *prior to becoming incapacitated* (or else it is too late to create one)

You create the HCD *in case* you ever become incapacitated

**Written instructions** about medical care you would or would not want or appoint someone to make decisions or both

## Health Care Directive (HCD)

You may name a person to carry out your instructions

You give that power to someone else

Only used after incapacity

## How are HCDs helpful?

HCD-helpful to share your thoughts, instructions, values, and beliefs **if you can't speak for yourself**



HCD-you name an Agent to speak/act for you



HCD-you **give the Agent instructions to guide** him/her when making decisions for you

**Caution  
Advised!**

Be sure you **trust Agent** to act as you wish!

Is the **Agent available and willing** to make these tough decisions **according to your wishes?**



## Power of Attorney (POA)

A legal document that allows another person to make decisions and take action regarding your money and property

You create this POA when you have capacity

You select what powers you want the Attorney in Fact to have regarding your money and property

# POA

A POA can be active immediately or not until you become incapacitated

A POA must contain *specific language* if you want it to continue to allow your Attorney in Fact to act after you become incapacitated


## POA

You retain the power to make your own decisions about your money and property so long as you have capacity

In a POA you are *sharing* your power with the Attorney in Fact

## How are POAs helpful?

POA for finances- helpful to allow Attorney in Fact to act regarding your property and money. You can still act for yourself if you have capacity.



POA-if it contains **language making it "durable"** then the POA powers **will continue even after you are incapacitated**

## Caution Advised!

This document is NOT supervised by the court


Nobody is watching the Attorney in Fact act regarding your money or property

You can write in limits/restrictions or require Attorney in Fact to make an accounting to you or others

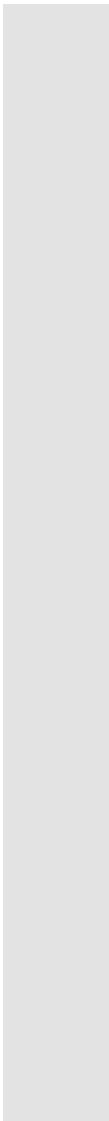
# Where can I get help with these documents?

- LawHelpMN.org

- [S-o8 Powers of Attorney.pdf \(lawhelpmn.org\)](#)
- Honoring Choices Minnesota Health Care Directive
  - [Microsoft Word - Honoring Choices MN Healthcare Directive 12-15.docx \(crowwingenergized.org\)](#)



What if I didn't  
do anything in  
advance?

- If incapacity happens and decisions regarding healthcare or finances need to be made:
    - For healthcare, the hospital will look to the next of kin
    - For finances and property: a Guardianship or Conservatorship through the court may be necessary
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Other actions  
to consider *in  
advance of  
incapacity*

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E-banking-direct deposit, etc

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Auto-payment of regular bills

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Authorized signers on accounts- **caution advised**

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Joint accounts- **much caution advised**

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Representative Payee for Social Security

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Transfer on death designation



Other actions  
to consider *in  
advance of  
incapacity*

- Will-document for distribution of assets AFTER DEATH
  - Must be created while you still have capacity
  - Must be done before death

Thank you!

# Legal Services of Northwest Minnesota

Apply for services at:  
**1-218-233-8585**  
**LSNMLAW.org**

\*Special thank you to Professor Deb Kukowski of University of Minnesota --  
Moorhead