

LEGAL TERMS FOR OLDER ADULTS AND FAMILY CAREGIVERS

POWER OF ATTORNEY

A written document in which you give another person the authority to act on your behalf in the areas of **finances** and/or **health care**. This document allows you to grant broad or very specific powers to this person and is signed by you voluntarily without the involvement of the court. A simple power of attorney document becomes invalid if you revoke it, or upon your death or incapacity.

DURABLE POWER OF ATTORNEY

A power of attorney document that includes language allowing it to continue in effect, or to become active, upon your incapacity. It is best to have an attorney draw up your Durable Power of Attorney document so it will comply with state law, however no court hearing is involved. The Durable Power of Attorney document becomes active when one or more physicians determine you are unable to make informed decisions about your health care and/or financial affairs.

LIVING WILL

A document that states your personal wishes about the use of artificial means to save or prolong your life, such as CPR, a ventilator and nutrition and fluids administered through a vein or through a tube inserted into the nose or stomach. This document applies in the event that you become terminally ill or in a persistent coma, and are unable to verbally make your wishes known to others. A Living Will supplements the **health care power of attorney** document by providing your loved-ones and your doctors with a means to understand and honor your personal wishes.

REPRESENTATIVE PAYEE

A person appointed by the Social Security Administration to receive and manage the monthly Social Security pension of a dependent adult or child. A physician's statement of incapacity is required for a payee to be appointed for an adult.

CONSERVATOR

A person appointed by the court to manage your **financial affairs** if you are judged to be incapable of doing so yourself. Conservatorship may be necessary if you have not designated a durable power of attorney for financial affairs prior to becoming incapacitated.

An attorney must be consulted to prepare the legal paperwork and file a petition to seek a court hearing. One or more physicians must certify that you are temporarily or permanently unable to make informed decisions about your financial affairs, and there must be evidence that your assets would be misused unless they are managed by someone else.

GUARDIAN

A person appointed by the court to make decisions about your **health care and personal well-being** if you are judged to be incapable of making these decisions yourself. Guardianship may be necessary if you have not designated a durable power of attorney for finances and health care prior to becoming incapacitated. An attorney must be consulted to prepare the legal paperwork and file a petition seeking a court hearing. One or more physicians must certify that you are temporarily or permanently unable to make informed decisions about your health care and personal well-being.

ADDITIONAL INFORMATION ABOUT CONSERVATORSHIP AND GUARDIANSHIP

A family member is usually appointed as a Conservator or Guardian, but a friend, an attorney or another interested person may be appointed if the family is unable or unwilling to serve.

You have the legal right to retain an attorney to challenge a Conservatorship or Guardianship petition.

Conservatorship or Guardianship may be limited, allowing you to retain control over specific financial or personal matters.

One person may serve as both Conservator and Guardian when both are needed, or these duties may be assigned to different persons.

Conservators and Guardians must pay the initial court filing fee, plus a yearly bonding fee. These fees may be waived at the discretion of the judge. The Conservator must also provide an annual accounting to the court of how your assets have been spent.

* This sheet contains general information only. It is not intended to substitute for professional legal counsel. Please consult an attorney to discuss your specific legal situation.

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