



POWER OF PLANNING: WHAT IS ADVANCE PLANNING?

Advance planning means putting your wishes into writing – before an emergency happens. It helps you plan ahead for decisions about your health, property, and money, in case you ever can't make them yourself.

It also means having **honest conversations** with family or friends about what you want if something unexpected happens, like a medical emergency or memory loss.

Why Do You Need Advance Planning?

You may need help making decisions because of:

- A medical emergency or hospital stay
- End-of-life situations
- Transportation or home safety concerns
- Memory loss or dementia
- Trouble managing bills or property

Everyone age 18 and older should plan ahead because none of us know what could happen!

What Are Advance Directives?

Advance directives are legal documents that make your choices clear and enforceable, even if you can't speak for yourself later.

Think of Advance Directives (such as POAs) like car insurance - **you hope you never need it, but you'll be glad to have them if you do!**

Benefits of Advance Planning

- You choose who will speak and act for you
- Gives you peace of mind
- Makes things easier for loved ones
- Helps prevent conflict with family and friends
- Avoids expensive court cases like guardianship

What If You Don't Plan Ahead?

If you don't choose someone you trust, and you need help making decisions, the law or a court will choose for you. Find out what that really means on the other side of this sheet.

Advance Planning Documents

Documents Used During Your Lifetime

- **Power of Attorney for Health Care** - name someone to make medical decisions
- **Power of Attorney for Property** - name someone to help with money, housing, benefits
- **Living Will Declaration** - state your wishes about life-sustaining treatment
- **Mental Health Declaration** - accept or refuse mental health care in advance
- **POLST** - Practitioner Order for Life-Sustaining Treatment: a doctor's order for end-of-life care (for people with serious illness) previously known as a DNR order

Documents Used After Death

- **Transfer on Death Instrument (TODI)** - pass your home or vehicle directly to someone
- **Last Will and Testament** - say who inherits your belongings
- **Beneficiary Designations** - name who will receive money from bank accounts, retirement accounts, or life insurance

Start Your Plan Today! Make your POAs for free:

Illinois Legal Aid Online -
www.illinoislegalaid.org/power-planning

Contact an Attorney:

- Illinois State Bar Association:
(800)922-8757 | www.illinoislawyerfinder.com
- NAELA (Elder Law Attorneys): (703)
942-5711 | www.naela.org/FindALawyer

Being prepared is the best insurance against financial, medical or legal issues in the future.



POWER OF PLANNING: WHAT HAPPENS IF YOU DON'T PLAN?

Medical Emergency: Illinois Health Care Surrogate Act

If you don't have a Power of Attorney or advance directives, the law decides who makes decisions for you. This is the order:

1. Guardian of the Person (if one exists)
2. Spouse (not including unmarried longterm partners)
3. Adult child (biological or adopted only)
4. Parent
5. Adult sibling
6. Grandchild
7. Close friend
8. Guardian of the Estate (if one exists)

Problems That Can Come Up:

- You may not agree with the order
- People in the same group (like siblings) may disagree
- Hospitals must wait for a majority to agree before acting
- Conflict can lead to a **guardianship case in court**

IMPORTANT: The IL Health Care Surrogate Act only covers **medical decisions** – not bills, housing, or legal matters.

Non-Medical Emergency: When Guardianship Is Needed

If you don't have a Power of Attorney and lose the ability to manage:

- Bills
- Housing
- Property
- Safety

...then someone must go to court to become your legal guardian.

Two Types of Guardianships:

1. **Guardian of the Person** – for health, care, and living arrangements
2. **Guardian of the Estate** – for money, benefits, and property

If you have a pension, retirement savings, any real property, an ownership interest in property, etc – a specialized probate lawyer will be needed for the Guardianship of the Estate court process.

Why Guardianship Is a Last Resort:

- The court – not you – picks the guardian
- It's expensive and takes time
- You lose legal rights and independence
- Court must approve major decisions
- Often requires a lawyer and regular court appearances
- Only happens after capacity is lost

Good news! If you have your Powers of Attorney, your friends and family will likely **not need guardianship**.

Our society has a fundamental obligation to guarantee justice for all of its members. **Center for Disability & Elder Law (CDEL)** has provided free legal services to low-income residents of Cook County for over 40 years. Founded by the Chicago Bar Foundation in 1984, CDEL expands access to justice for people impacted by poverty, disability, or age.

Funding provided by

