



PLANNING AHEAD

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FOR YOUR FUTURE



Minnesota Aging Pathways is a statewide service of the Minnesota Board on Aging, delivered locally by Minnesota's area agencies on aging. By calling one number, 800-333-2433, older Minnesotans, their friends and families can get free, objective information and assistance on a wide variety of topics.

Minnesota Aging Pathways staff are available to help Monday–Friday 8:00 a.m.–4:30 p.m. by calling 800-333-2433, emailing aging.pathways@state.mn.us or via online chat at mn.gov/aging-pathways.

Though elder law attorneys have assisted with this publication, it is intended to be general information and is not legal advice. Always consult a lawyer when making important legal decisions.



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INTRODUCTION

Planning ahead is about your future—for the expected and the unexpected. Having a plan in place means you get to choose - where and how you live and who will take care of you. Knowing your wishes will give your family peace of mind, making caring for you easier and could save money.

Right now, you manage your finances and make informed medical decisions. But if you can no longer do these things:

- someone will have to decide where you live
- someone will have to make medical decisions for you
- someone will have to take care of your money

If you didn't plan:

- your estate might have to go through probate
- your property could be given to the wrong people
- legal fees could be expensive

Life is unpredictable. Planning lets you make decisions in advance. Don't wait until something happens, because it could be too late.



WHAT SHOULD YOUR PLAN INCLUDE?

Everyone's needs are different, but it is typically a good idea to ***have a power of attorney, health care directive*** and a ***will***.

Make sure that your bank and investments ***have beneficiary or transfer on death designations*** and that those are consistent with your estate plan. To make a plan specific to you, meet with a lawyer to decide what else you need, such as a trust or a transfer on death deed.

You will want to ***decide what you will do if you need help with ordinary tasks of daily living***—long-term care services and supports. This includes where you will live, who will provide your care and how you will pay for it. You should also choose someone who will help you to manage your finances, take care of your home and direct your health care.

And when you die, you will want to ***ensure that your post-death wishes are followed***, by giving clear directions about your funeral arrangements, who you want to receive your property, whether you want your organs donated and more.



1. GET ORGANIZED

Begin by putting all your important papers and information in one place where your family or the people you choose to help you can find them.

Remember, you are planning for yourself and for a time when you no longer can make decisions. Be sure to keep this information available and in a home safe or other secure location. Make sure that someone you trust knows where to find it in case it is needed.

Personal identification information

To help family members and caregivers, make a list of your legal name, nicknames and previously used names. Include the addresses of your home and other properties, phone numbers (home, work, cell, etc.), date and place of birth, social security number and Medicare number.

Contacts

Make a list of everyone you would like contacted if something happens to you—family, friends, your employer, etc. You may also want to make another list that includes people who typically work as needed on your home—plumber, electrician, yard service, handyman, etc.

Medical information

Include your doctors' contact information, as well as information about medical procedures, illnesses, medications, allergies, family health history and your health insurance or Medicare plan information. If you have long-term care insurance, include a copy of the policy.

Banking and investments

Create a list of all your financial accounts. For each account, list the bank or financial institution, account number, current value and what will happen to the account when you die. Each should be a transfer on death account, which allows you to name one or more people to own your account automatically when you die, without having to go through probate. If applicable, include contact information for your financial advisor, accountant, insurance agent, etc. You can also include information about your monthly bills and how you pay them.

Life insurance policies

If you have life insurance, be sure to place a copy of the policy in your file. Include contact information for the agent, the amount of the death benefit, current cash value and the beneficiaries.





Legal documents

Include a copy of your power of attorney, health care directive, will and any other documents that are part of your plan. Also include contact information for your attorney and the people (or companies) you have selected to carry out your wishes.

Other important documents

Locate and include other important documents that you typically need to apply for public assistance and to manage your affairs. These include birth certificate, military service records, real estate deeds, insurance policies, stock certificates, a spouse's death certificate, marriage certificates, social security cards, Medicare cards, vehicle titles and divorce decrees.

Online accounts

If you do any online banking, shopping, use email, pay bills online, or have social media accounts, keep a list of account usernames and passwords in a safe and secure location. This is especially important if you only receive financial statements via email. Make sure your power of attorney covers digital assets, so whomever you designate can access these accounts legally.

Funeral information

If you have prepaid for your funeral or burial, you should include this information with the other important documents you have gathered.

2. TALK TO A LAWYER

Your attorney will get to know you and can help you decide what documents you need, and who you should appoint to act on your behalf.

You should have a health care directive and a statutory short form power of attorney in place, in case something happens to you. This will provide information about who you have chosen to care for you and your property. Other documents your attorney may suggest for you are a will, trust, common law power of attorney, transfer on death deed and an advance funeral directive.

If you have a chronic illness or you are worried about paying for long-term care, you should see an elder law attorney who understands public benefits. They can also advise you about trusts. Visit www.lawhelpmn.org to learn more.





3. MAKE A PLAN FOR YOUR MONEY AND PROPERTY

It's important to manage your money and property as you age.



Your plan will likely change as soon as it's signed, and should include safeguards in case you lose your ability to manage things yourself. You can decide if your plan is formal or informal, but at a minimum, it should include a power of attorney. There is much you can do now so your wishes are followed when the time comes.

Automatic banking and direct deposit

If you have not already done so, have your income automatically deposited into your bank account and if you can, have your regular monthly payments withdrawn automatically from your account—especially health insurance and if you have it, long-term care insurance.

Power of attorney

A power of attorney is a legal document that allows another person to act for you. You should create a power of attorney that is durable, which means that its powers continue after you can no longer manage your own affairs. Your power of attorney ends when you die, but you can cancel or revoke a power of attorney at any time, as long as you are competent.

It is important that you choose the person who will carry out your wishes for you (your agent or attorney-in-fact) wisely. Choose someone you trust, who is responsible and good with numbers. Serving as someone's agent is a big responsibility. They will be making decisions for you.

You can give your agent as much, or as little, authority as you want them to have. You can also include safeguards to protect you, such as requiring documentation of all transactions, or choosing two people to serve as agents who have to work together and agree on things.

There are two types of powers of attorney—The Minnesota Statutory Short form power of attorney www.mncourts.gov/help-topics/power-of-attorney.aspx and the common law power of attorney.

***IT IS A VERY GOOD IDEA TO MEET WITH A LAWYER
BEFORE YOU SIGN A POWER OF ATTORNEY TO MAKE
SURE IT MEETS YOUR NEEDS.***

Typically, you shouldn't give an original power of attorney to anyone but your named agent. You should keep it with your other important papers, so your agent can find it. If you have only one original, have it recorded at your county recorder's office. Later, you or your agent can get certified copies of it any time from the recorder's office.

Multiple-name bank accounts

Adding another person's name to a bank account is an easy and effective way to allow a trusted relative or friend to help you. By having access to the account, another person can sign checks, pay bills or transfer money between your accounts. There are different types of accounts, so choose carefully.

In a joint account, any person whose name is on the account is a co-owner. They can make deposits and withdrawals without the other person's knowledge or consent. However, you might not be able to take the other person's name off the account without that person's written approval. When one owner dies, the survivor automatically owns the account without having to go through probate.



An authorized signer account (convenience account or power of attorney account) may be less risky. The authorized signer can make deposits, withdrawals and sign checks, but is not an owner of the account. Unlike a joint account, the account does not belong to the authorized signer when you die; instead, funds belong to the estate.



You can also hire a professional to help you organize your bills and make payments, but you remain in charge. Make sure they keep good records and go over them with you regularly. Make sure the professional has insurance and is reputable.

Regarding Social Security and veterans benefits, you can appoint someone to help if it is just getting too hard to manage your affairs. A representative payee is a person or organization who can receive your Social Security or veterans benefit on your behalf, use it to pay your current expenses and save for future needs.

- The Social Security Administration Representative Payee Program has rules and regulations to protect the beneficiary's income—www.ssa.gov/payee.
- The U.S. Department of Veterans Affairs also has a representative payee program benefits.va.gov/fiduciary/fiduciary.asp.
- There are professional fiduciaries you can hire to serve as your representative payee. Visit mn.gov/adresources to search for one near you.

Trusts

A trust is a written agreement that states how you want your property managed during your lifetime, who you want to act on your behalf (trustee) and how they should distribute your property when you die. There are many different types of trusts. Although they are not tied to how much money a person has, they do not work for everyone. As with any planning tool, review your options to find out what will work best for you. Per Minnesota law, you cannot use a trust to avoid paying for long-term care services if you are on Medical Assistance.

- A revocable living trust allows someone to manage your property for your benefit during your life. It says how you would like things managed after your incapacity or death. Upon death, it becomes irrevocable.
- An irrevocable trust cannot be changed or terminated. It is considered a separate taxable entity with its own tax ID number.
- Choose your trustee wisely, as they have a lot of responsibility. The person you choose should be trustworthy and capable of managing paperwork, tax returns and property management tasks. It is possible to hire a professional trustee; many banking institutions have trust departments. It is a good idea to go over options with an attorney before naming a trustee.

Appointment of a conservator

A conservatorship is a relationship between two people created by a court to protect someone who cannot handle their own financial affairs and has not made prior arrangements. ***If you don't plan ahead*** and become incapacitated, the court may have to appoint a conservator to manage your money, income and property.

If the judge decides a conservatorship is necessary, you lose the right to make financial decisions. Having a power of attorney can help to avoid this.



4. DECIDE YOUR HEALTH CARE PREFERENCES

Having a health care directive in place lets you make informed decisions now about the health care you want to receive in the future.

A health care directive is a written document where you name someone (health care agent) to make health care decisions for you, if you become unable to make or communicate decisions for yourself.

As an adult, you have the right to make decisions about your own health care. That right does not end when you are not able to make decisions for yourself. If something happens to you, your health care agent can carry out your health care preferences.

Health care directive

- Must be in writing
- Must be dated
- Must name the agent who is competent when they sign the document
- Must be signed and witnessed by two people, or signed before a notary public



You can prepare a health care directive yourself or with the help of an attorney. The Minnesota Health Care Directive can be found online at www.ag.state.mn.us/consumer/handbooks/probate/HealthCareDir.pdf.

Your health care agent can be any adult who is not your health care provider or their employee. Choose someone you trust who will follow your instructions and act in your best interests. Make sure they want to be your health care agent and choose an alternate in case your agent is not willing or able to help. There also are professionals who will serve as a health care agent.

You can cancel or revoke your health care directive in whole or in part by destroying the document, creating a written and dated statement, stating your intent to revoke it in the presence of two witnesses or executing a new health care directive.

Keep the original in a safe place with your other important papers that is easily accessible by your agent in an emergency. In Minnesota, a copy of the directive is as valid as the original. Give copies to your agent(s), doctor(s), family and close friends and any place where you may be receiving care—hospital, home care agency, hospice, nursing home, etc.

Ceasing life sustaining treatment

If you do not want any life-sustaining treatment, perhaps due to a terminal condition, let your doctor know.

- **DNR/DNI/DNH**

Do not resuscitate/do not intubate/do not hospitalize (DNR/DNI/DNH) limits the scope of a patient's emergency medical care. They must be ordered by a physician and signed by the patient or their health care agent. Medical personnel will follow the DNR/DNI/DNH, if presented to them during an emergency. Because the DNR/DNI/DNH is limited only to decisions regarding end of life and resuscitation or intubation, you should also have a health care directive.



• POLST

Provider Orders for Life-Sustaining Treatment (POLST) is a signed medical order that communicates a patient's end-of-life health care wishes to health care providers during an emergency. Providers use a POLST to determine end-of-life treatment options for seriously ill patients. Though typically more specific than a health care directive because it is a medical order, you should have a health care directive and an agent as well.

Becoming incapacitated with no plan in place

If you don't have a plan in place and you become incapacitated, a court may appoint a guardian to make personal decisions for you, such as your medical care, where you receive care and where you live. If this happens, you lose your right to make decisions about personal matters.

Planning ahead and using supported decision making tools or documents can help you keep control over your future and your life. Health care directives, power of attorney forms, supported decision making agreements, representative designations and other tools enable you to keep your rights, while getting help from trusted family and friends to understand and make choices.

Planning ahead allows you to keep control over your own life, reserving guardianship for a time when there are no other options available.

5. PAY FOR LONG-TERM CARE SERVICES AND SUPPORTS

Long-term services and supports (LTSS) is on-going help for someone with a chronic health condition or disability. LTSS can be delivered in a person's home, the community or a facility, like a nursing home.

Help with daily living

People living with chronic illnesses or who have experienced a catastrophic event may need help with activities of daily living (ADLs), such as bathing, walking, eating, etc. or instrumental activities of daily living (IADLs), such as managing finances, shopping, cooking, etc. Custodial care is help with ADLs and IADLs, and skilled care is more complex assistance provided by licensed health professionals, like nurses and physical therapists that are ordered by a doctor.



Paying for LTSS

LTSS are expensive, and many people are surprised to learn that Medicare covers very little. It is important that you have a plan for how you will pay for your long-term care. You can visit mn.gov/dhs/ownyourfuture to learn more.

Private health insurance

Private health insurance may pay for some nursing home and home care, but usually that is limited to skilled nursing care. Typically, it does not pay for custodial care, either in a nursing home or at home.



Long-term care insurance

Long-term care insurance is privately sold insurance that covers long-term care services not covered by Medicare, such as adult day care, home health care, assisted living, care management and nursing home services. Coverage is provided through a long-term care insurance policy or a life insurance policy rider.

Medicare

Medicare is a federal health insurance program for people 65 and older and younger people with disabilities. Medicare does not pay for custodial care, but may pay for some skilled care, if all of the following criteria are met:

- ***Medicare coverage for nursing home care***

Medicare pays for skilled nursing care in a nursing facility for 100 days per illness. You must be an inpatient in a hospital and stay there for three nights in row (three midnight rule). Of the 100 days, Medicare pays for days 1-20, then for days 21-100, you will pay a copay. Once you reach 100 days, Medicare coverage for this illness will end.

- ***Medicare coverage for home health care***

Medicare will pay for skilled care provided at home or a location, like assisted living, if it meets all of the following requirements:

- A doctor has prescribed and developed a home care plan for you
- You need skilled care to improve, maintain, prevent or further slow your health condition
- You are homebound
- The home health agency is Medicare-certified

- ***Medigap and Medicare Advantage Plan***

Medicare has significant out-of-pocket costs, so it is important that you purchase additional insurance to pay for co-insurance and deductibles and increase coverage.

- **QMB, SLMB and QI**

Qualified Medicare Beneficiary (QMB), Specified Low-Income Medicare Beneficiary (SLMB) and Qualifying Individual (QI) are income-based programs that cover some Medicare copays, premiums, and deductibles, if you qualify.

To see if you are eligible and apply, call your local county social service agency, or Minnesota Aging Pathways at 800-333-2433. If you enroll in one of these programs, you automatically qualify for Extra Help with Medicare prescription drug costs, reducing your Part D premiums, co-insurance and copays.

- **Veterans benefits**

Eligibility for veterans benefits can be complex, so if you are a veteran, contact the Veterans Administration (VA) or your County Veterans Service Officer (CVSO). Go to mn.gov/adresources and do a search for the CVSO near you.

Aid-and-Attendance

This benefit is designed to provide financial aid to help offset the cost of long-term care for those who need assistance with the activities of daily living, such as bathing, dressing, eating, toileting and transferring.

Adult day care

The VA administers an adult day care program for all veterans. Veterans can either pay the full cost or seek financial assistance. If the veteran has a service-connected disability, there is no cost.

Veterans Directed Care Program

The Veterans Directed Care Program is a collaborative partnership between the Minnesota River Area Agency on Aging and the Veterans Health Administration. The program provides services to veterans to help them remain in their home or the home of a loved one, with the support of paid caregivers of their choice. This may include help with personal care, housekeeping, meals, rides, memory care support,



caregiver education, coaching and relief care. Call the Minnesota River Area Agency on Aging at 507-387-1256 or visit mnraaa.org/veteran-directed-services-2 for more information.

Payment of nursing home costs

The VA has contract facilities all over the state of Minnesota and a nursing home in St. Cloud. The more serious the service-connected disability, the more likely it is that the veteran can have the cost of care paid by the VA. This is not a needs-based program; eligibility is based solely on the veteran's service-connected disability.

Minnesota Veterans Home

Minnesota Veterans Homes provide health care services to veterans and spouses who meet financial eligibility requirements and have a medical need to live in a structured health care environment. For more information visit mn.gov/mdva/homes.



Medical Assistance

Medical Assistance (MA), also known as Medicaid, is an income-based program with strict asset and income limits. MA pays for long-term care services, both in a nursing home and in the community, for those who qualify. If you receive MA because you don't have any other way to pay for your long-term care, the state will have a claim against any money or property in your (or your spouse's) estate to recover the amount of money paid on your behalf.

MA pays for all health-related services, including room and board, for those in a facility. For those living in the community, it covers many services, but not room and board. Waiver programs offer extended services for those at home:

- The Alternative Care (AC) program provides home-and community-based services to people who need nursing home level of care but choose to live in the community.

mn.gov/dhs/people-we-serve/seniors/services/home-community/programs-and-services/alternative-care.jsp

- The Brain Injury Waiver (BI) provides funding for home and community-based services for children and adults who have an acquired or traumatic brain injury.

mn.gov/dhs/people-we-serve/people-with-disabilities/services/home-community/programs-and-services/bi-waiver.jsp

- The Community Alternative Care (CAC) Waiver provides funding for home and community-based services for children and adults who are chronically ill. CAC serves people with disabilities who would otherwise require the level of care provided in a hospital.

mn.gov/dhs/people-we-serve/people-with-disabilities/services/home-community/programs-and-services/cac-waiver.jsp



- The Community Access for Disability Inclusion (CADI) Waiver provides funding for home and community-based services for children and adults, who would otherwise require the level of care provided in a nursing facility.

mn.gov/dhs/people-we-serve/people-with-disabilities/services/home-community/programs-and-services/cadi-waiver.jsp

- The Elderly Waiver (EW) program provides home and community-based services for people who need the level of care provided in a nursing home, but who choose to live in the community.

mn.gov/dhs/people-we-serve/seniors/services/home-community/programs-and-services/elderly-waiver.jsp



6. PLAN FOR WHAT HAPPENS AFTER YOUR DEATH

You can appoint an agent to make decisions about what happens to your body after you die. This may include decisions about organ donation, cremation and where you want your remains buried or scattered.

Funeral planning

You can use your health care directive to state who you want to be in charge of your funeral and what will happen to your body after you die.

If you think that someone in your family will object to that person or your wishes, you should fill out an **advance funeral directive**. A written, signed and dated advance funeral directive will give the person you name the power to make the decisions, even if your family does not agree. A lawyer can help you draft this correctly.

Organ, eye and tissue donation

Unless you state in writing that you do not want your organs donated, your spouse or health care agent can opt to donate your organs upon your death. You can indicate your wishes in your health care directive, your driver's license or Minnesota ID, make a written statement or get on a donor registry.

Whole body donations

There are programs offering whole body donations to support medical research and education.

- The University of Minnesota Medical School Anatomy Bequest Program
med.umn.edu/anatomy-bequest-program
- The Mayo Clinic Body Donation Program
www.mayoclinic.org/body-donation



Post-death checklist

Give this checklist to your agent to help keep track of the things they might need to do after your death. They should:

- ☐ Locate your will
- ☐ Have your mail forwarded
- ☐ Get death certificates from the funeral home for proof-of-death
 - They will charge you for each certificate. Some creditors will want a certified copy, while others will take or make a photocopy.
- ☐ Notify all your insurance companies
- ☐ Contact your financial advisor/banks
 - Cancel or change the name on joint accounts and credit cards
 - Contact pension funds
- ☐ Update property titles
- ☐ Cancel your driver's license
- ☐ Sell vehicle or change vehicle's title
- ☐ Notify Social Security (SSA), who will then notify Medicare
 - Find out about spousal/survivor benefits. They can apply for Social Security death benefit www.ssa.gov/forms/ssa-8.html.
- ☐ Deactivate social media/email accounts



7. PLAN FOR DISTRIBUTION OF YOUR MONEY AND PROPERTY

There are only a couple of options for the post-death distribution of your property, payment of your debts and providing for your loved ones—a will, a trust or having your property pass automatically without a trust or a will. But talk to a lawyer to make sure you have all your bases covered, even if you don't have a lot of money or property.

You will have to decide if you want your estate to go through probate or if it can all pass automatically at death. If the value of all probate assets is under \$75,000 and there is no real property, no probate is necessary. Having a will or not does not determine whether an estate goes through probate. What matters is whether the person who died had sufficient probate assets to make the probate process necessary.

You can avoid probate by doing one of several things:

- making sure that all of your assets have beneficiary designations
- making sure your assets are jointly owned
- placing all of your assets in a trust

Avoiding probate should not be your only estate planning goal. Rather, it should be protecting your heirs and ensuring they follow your wishes. In Minnesota, you can designate all assets, including your house and car, so that they pass automatically at death. Most retirement plans, annuities and life insurance policies let you decide who should receive your assets at your death. Each financial institution will have forms for you to complete. Sometimes, avoiding probate can be more expensive than going through probate. Talk to your lawyer about your situation.

Last will and testament

A will is a written document that directs the ownership of a person's assets and personal property after their death. In a will, you can give instructions as to who should get your property, how to pay your debts



and who you want to care for your minor children. You will also appoint a personal representative who will be in charge of carrying out your wishes.

Under Minnesota law, any person 18 years of age and older who is of sound mind can make a will. The will must be in writing, signed and witnessed by at least two people. The witnesses and the person making the will should make a statement under oath that the will was signed by the person of their own free will, and that the person is over the age of 18 and of sound mind and under no constraint or undue influence.

Everyone should have a will, even if all of your property can pass automatically at your death. This helps to ensure that your wishes are known in case something unforeseen happens, like a company loses a beneficiary designation or your named beneficiary dies before you.



8. TALK TO PEOPLE CLOSE TO YOU ABOUT YOUR PLAN

As part of your plan, you have chosen agents to carry out your wishes.

Have a conversation with the people you have chosen as your agents. Explain what matters most to you, the decisions you want them to make when they need to act on your behalf and where to find your important documents.

It is also a good idea to talk with your family and close friends about your plans. Let them know who you have chosen to make decisions for you and why. When the people closest to you understand your wishes, they are more likely to support your agents and help avoid confusion, disagreements or added stress during a difficult time.

Talking about your plan may not be easy, but it is one of the best ways to make sure your wishes are understood and respected. Clear communication today can give you and your loved ones greater peace of mind and help ensure your plan is carried out the way you intended.



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Notes

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