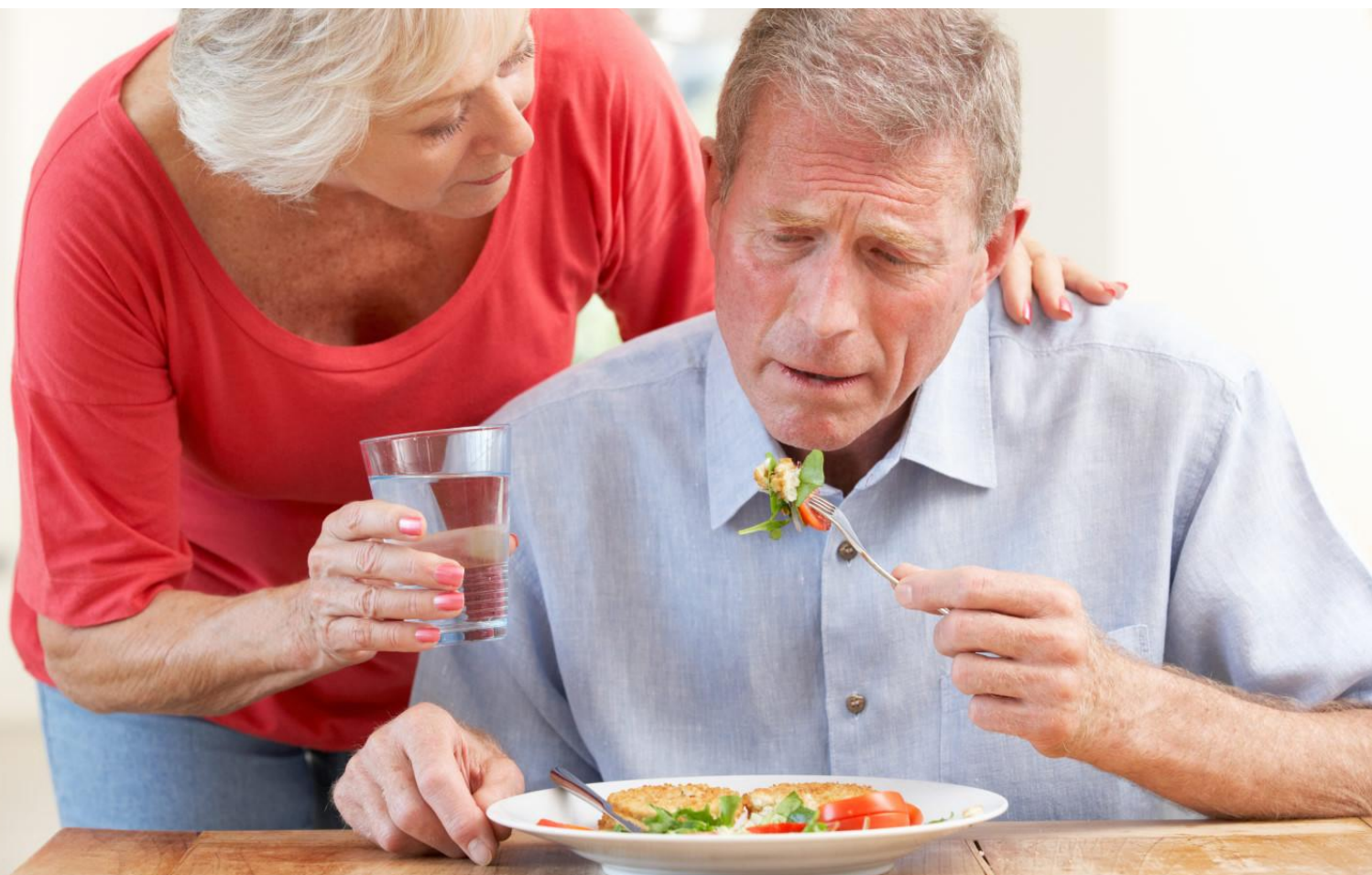


Regardless of Your Age, Health, or Financial Position, Incapacity Planning Is Something that All Capable Adults Need to Address as Soon as Possible

INCAPACITY PLANNING IN NORTH DAKOTA

(Part 2)



RAYMOND J. GERMAN

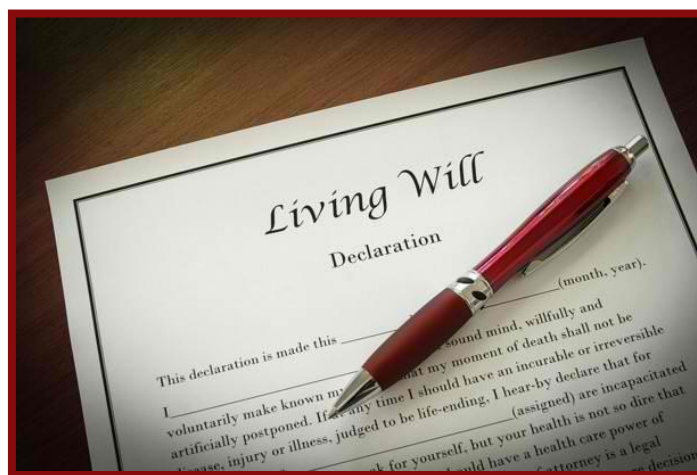
NORTH DAKOTA AND MINNESOTA ESTATE PLANNING ATTORNEY

In this second discussion on incapacity planning in Minnesota and North Dakota, we're going to take a look at the specific protections your plan will afford you. Regardless of your age, health, or financial position, incapacity planning is something that all capable adults need to address as soon as possible. Having a plan in place can mean the difference between allowing your family to be prepared for an emergency and leaving them to clean up the mess that can arise if you're suddenly rendered incapable.

PROTECTING MEDICAL CHOICES

One of the more important pieces of any incapacity plan is the advance directive. Advance directives, so-called because you make these tools in advance of needing them, give you control over medical care and treatment in the event you become incapacitated.

There is more than one type of advance directive, and depending on the state in which you live, these documents go by various names. However, regardless of their titles, they tend to serve the same purposes.



First, an advance directive allows you to state your medical preferences. Living wills, one of the main types of advance directive, allow you to go into as much detail as you wish about the kinds of medical treatment you would want to receive when you can no longer make choices or communicate them. For example, you can choose to accept or refuse heroic measures if you're suffering from a terminal

illness, refuse to accept resuscitation methods, or state your wishes about any other type of health care. As long as you make sure the advance directive complies with the requirements imposed under state law, your doctors and health care providers will have to abide by your wishes.

FINANCIAL PROTECTIONS

Who pays your bills if you are in an accident? Who manages your property? An incapacity plan will allow you to protect your personal and financial interests as well. Durable powers of attorney are one of the most useful, and powerful, incapacity planning tools available today. These tools serve as a safety net,

allowing you to be sure that your financial responsibilities will be protected should you no longer be able to attend to them yourself.



The protection of financial responsibilities is something that many people take for granted. For example, married

couples commonly, and incorrectly, assume that their spouses will be able to manage their financial responsibilities if an emergency arises. While this is often true, there's no guarantee that your spouse will have this ability unless you create an incapacity plan. Should you and your spouse have separate bank accounts, credit card accounts, or other financial accounts, the financial institution may not grant your spouse access after you are incapacitated. With joint holdings there is

typically not a problem, but separate accounts can be an unexpected hurdle, especially if your spouse is counting on those funds for practical concerns.

APPOINTING REPRESENTATIVES

A vital piece of every incapacity plan is appointing appropriate representatives. Whether you're considering personal, financial, or health care decisions, appointing the right representative is vital. Through your incapacity plan you will have the ability to grant one or more people, or organizations, the legal authority to make decisions for you.



For example, if you own a farm or business, do you know who will be able to begin managing it in the event you become incapacitated? An incapacity plan will allow you to name someone who can step in if and when that time comes. Creating the appropriate incapacity planning tool, whether it is a power of attorney or advance directive, gives you the ability to select the representative of your choosing.

When you create an incapacity plan, you can choose almost anyone you like to

serve as your representative. While that person has to be a capable adult, you are under no legal obligation to choose a close family member, spouse, or anyone else. You can also choose to appoint professionals, such as your attorney, bank, or other institution to serve as a representative.

However, should you fail to plan ahead and choose a representative; someone else will still have to begin making choices for you. Who will this person be? Your spouse? Your parents? Your children? In the end, not having an incapacity plan will mean you cannot be certain. A court will have to appoint the appropriate representative. Since you will not be capable of making choices at the time, you will have no control over who that person will be.

INCAPACITY PLANS BEGINS WHEN YOU WANT IT TO



The creation of an incapacity plan should be something that is high on every adult's to-do list. The reality is that, no matter how young, healthy, and secure you are, you can never know what tomorrow holds. Will you be prepared should the unexpected

occur? Will you be able to rest securely knowing that you've done everything you can to protect yourself and your family?

If you haven't taken the time to create an incapacity plan you cannot confidently answer these questions. If you want to answer them, and know that your wishes will be respected, you will have to create an incapacity plan.

The attorneys and staff at the German Law Group have years of experience guiding our clients through the incapacity planning process. We know what issues you will have to consider, the decisions you will have to make, and can explain the options available to you. Yet all of our knowledge and experience means nothing if you do not make the choice to contact us.

We can help you craft your plan and prepare for the future, but we cannot force you to start. That decision is up to you.

About the Author

Raymond J. German



As an attorney in Minnesota and North Dakota, Raymond J. German provides a wide range of estate planning and title services to his clients, with a primary focus on helping them provide for the security of their loved ones, reduce estate taxes and avoid or at least minimize the costs and delays of probate, all with a well-crafted estate plan. Mr. German defines the mission statement for Raymond J. German, LTD. Law Firm as "Helping one family at a time pass on values, beliefs and finances, which can be shared for generations to come." Mr. German is well aware of the

growing importance of estate planning and dedicates himself to informing the public of the need for careful attention to their specific situations. He is a frequent speaker on a variety of estate planning topics, regularly presenting educational seminars for the public as well as private groups.

Raymond J. German approaches each challenge with not just solid expertise, but also remarkable enthusiasm and vigor. By constantly seeking simpler, better, and more effective ways of doing things, he continues to make a real difference in the lives of families and on the way estate planning is practiced by attorneys around the country.

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