

## **Durable Powers of Attorney - Incapacitation**

Too frequently in estate planning we fail to give adequate attention to “worse-case” scenarios. For many people one worse-case scenario might be: a disease or accident that leaves you in a coma or mentally incapacitated for several months or years?

Who have you identified to manage your business – if you are physically or mentally incapacitated? Many of you might say your spouse – but what if they were killed or incapacitated in the same accident?

Have you identified who will legally be able to make medical decisions for you – if you are not able to make them for yourself? The highly publicized cases of Cruzan and Shiuvo have made many of us more aware of the need for health care directives and choosing who we would want making those type of decisions when we’re incapacitated.

Making arrangements for dealing with incapacitation is too frequently overlooked or ignored in “do it yourself” estate planning. One planning tool that is designed to be functional during incapacitation is a “durable power of attorney”. A durable power of attorney provides an agent (a person that you have selected) the right to act and make decisions on your behalf despite your incapacity. A durable power of attorney for financial management and a separate durable power of attorney for health care are frequently recommended.

If you still have unresolved issues regarding your estate plan – work with your estate planning team to identify and evaluate the best strategies for meeting your goals and objectives.