When a loved one becomes unable to care for their own health or finances, someone else must step in to assist. If the right preparatory documents are in place, the process can be fairly simple. If not, however, then you may need to petition the court for guardianship to gain authority to handle healthcare or financial matters.

Because guardianship removes an individual's rights, it is considered a measure of last resort by the courts. A McKinney estate planning attorney explains options for avoiding the costs, delays, and challenges of guardianship proceedings.

Set Up a Power of Attorney and Healthcare Directives

Estate planning is often thought of as the process of dealing with your property after you die, but actually, estate planners use many tools to assist at various stages of your life as well. Two of the most important are the healthcare power of attorney and financial power of attorney.

When a McKinney estate planning attorney draws up a power of attorney, the document grants authority to someone to make decisions on your behalf. You can decide how much authority you want to give, who you want to give it to, and when you want that authority to go into effect.

If you want assistance paying bills and managing bank accounts now, you could set up a financial power of attorney to enable a family member or friend to access your accounts, transfer funds, and make payments. Unlike guardianship, you still retain the right to manage your financial affairs. If you want to be protected in the future but are not ready to grant authority to someone else at present, your attorney can establish a springing power of attorney that only takes effect when you become incapacitated.

A separate medical power of attorney can allow someone you trust to make healthcare decisions on your behalf, such as authorizing treatment. You can also have your lawyer create a Living Will and Declaration for Mental Health Treatment to explain and authorize your wishes for end-of-life care or mental health treatment.

Additional Options for Avoiding Guardianship Proceedings

A McKinney estate planning attorney may recommend one or more types of trusts to prevent the need for guardianship of the estate. These could include:

- Special needs trust
- Irrevocable trust as a planning tool for long-term public benefits
- Revocable living trust
- Testamentary trust to provide for a dependent
- Pooled trust

Depending on the situation, it might make sense to set up a joint bank account or establish a co-signee on accounts, designate a representative payee for public benefits (including Social Security), or provide for community administration of marital assets. There are many options available to provide for the management of financial concerns without the need for guardianship.

A McKinney Estate Planning Attorney Can Help You Prepare for Whatever the Future Brings

With advance planning, you have numerous options for avoiding the need for guardianship proceedings for yourself or a loved one. The key, however, is preparation. If you wait until the need arises, the opportunities will be gone.

Schedule a consultation with a McKinney Estate Planning attorney who can review your existing documents and evaluate what you need for full protection in the future.