

Even though more and more people are willing to talk about estate planning, there are still families where the topic is considered taboo. Now, it is a family's right to determine the extent to which they plan and involve others in their estate planning; however, we would like to stress the importance of at least establishing a Power of Attorney.

WHAT IS A POWER OF ATTORNEY?

A Power of Attorney is a legal document, drafted by a lawyer, giving a designated person authority over your financial and legal affairs. If you are the person authorizing someone to act on your behalf, you are considered the grantor (sometimes referred to as a donor or principal) and the designated person is called the agent. A grantor can have several agents, ultimately deciding whether the agents will act individually or jointly for certain matters. A grantor can also authorize an agent for a particular length of time, depending on the circumstances. A basic Power of Attorney usually continues indefinitely unless there is a specified end date or it is revoked.

WHY WOULD YOU GRANT AUTHORITY TO AN AGENT?

Whether you are away from home for an extended period of time, sick or just busy, your authorized agent can handle matters pertaining to your business, insurance, finances, etc. on your behalf. Your agent can also access your bank accounts, though they have a legal duty to act in your best interests. For instance, they cannot use your money for their own personal benefit.

WHEN CAN YOU GRANT A POWER OF ATTORNEY?

Your lawyer is obligated to determine that you, as the grantor, are granting the Power of Attorney while you are

"of sound mind." Many people are unaware that if you wait until you are too ill or confused to be considered legally competent, it is too late to grant a Power of Attorney and this can have serious implications.

WHAT AN AGENT CANNOT DO

An agent cannot change a grantor's Will. Only the person who created the Will has the authority to change it, except in the case of an Enduring Power of Attorney (Representation Agreement) which allows individuals to plan for the possibility of future incapacity.

I AM MARRIED AND MOST OF OUR ASSETS ARE JOINTLY HELD, DO I STILL NEED TO AUTHORIZE AN AGENT?

When assets are held jointly with a spouse, it is normal to consider the other spouse as an unofficial agent. However, in the case that both spouses are out of town or unable to make a time-sensitive business, insurance or financial decision, having an appointed backup person—an authorized agent—could prove to be very useful.

In closing, preparing a Power of Attorney is quite painless and the cost is minimal when compared to the peace of mind it brings. Many tend to view this legal document as more relevant for seniors, but whether you are young or old, fit or frail, a Power of Attorney is designed with your best interests in mind.

