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The Power of Attorney: Options and Considerations

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*Continued from The Power of Attorney: Protect Your Assets and Your Peace of Mind.

In our last article, we discussed why having a valid Power of Attorney is essential to your future well-being. While the responsibility of selecting a trustworthy agent to act on your behalf may seem overwhelming, there are options to consider when establishing your Power of Attorney that may make the decision easier.

Options and Considerations

A **General Power of Attorney** gives your agent all the powers and rights you have yourself.

A **Limited Power of Attorney** appoints your agent only with the powers you want them to have. You may authorize your agent to do one specific task such as sign a deed to property, or you may authorize your agent to act on your behalf in a variety of functions such as signing checks, making gifts, and accessing your financial accounts. It is important to give your agent the broadest range of powers with which you feel comfortable in order to account for future situations that you may not anticipate.

A **Springing Power of Attorney** only becomes enforceable when a specific event (as determined by you and your attorney) occurs, such as when you become incapacitated. While this ensures that your agent will not act on your behalf without your knowledge while you maintain your capacity, this option may create problems over determining whether or not the triggering event (your incapacity) has occurred. If you choose to create a Power of Attorney with springing powers, it is vital that your attorney clearly defines “incapacity” and the triggering event. If the document is unclear, your agent may not be able to enforce it when they need to act on your behalf.

A **Durable Power of Attorney** is effective immediately upon your signing it and will remain in effect for the remainder of your life, as long as you do not revoke it. Even though your agent will have the authority to act on your behalf as soon as the document is signed, they are not required to do so. You can still manage your own financial matters.

In most cases, a Power of Attorney with broad powers and immediate effectiveness is the most appropriate option. However, every situation and every family is different. If you are considering establishing a Power of Attorney, we recommend that you meet with a qualified estate planning attorney who can assist you in creating the Power of Attorney that is best for you.

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Elder Law Attorneys; Estate Planning & Administration Attorneys

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