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The Power of Attorney: Protect Your Assets and Your Peace of Mind

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Power of Attorney

One of the most essential tools in a person's estate planning tool box is a Power of Attorney. This document can be simple or complex depending upon the individual's needs and is vital to a person's personal and financial well-being. A properly drafted Power of Attorney allows an individual to designate an agent to make financial decisions in their stead. It is effective immediately upon execution, or it may become effective if the individual becomes incapacitated or incompetent. It also offers protection and peace of mind if an emergency arises and the person becomes incompetent.

Is not having a Power of Attorney really a big deal?

While the thought of granting someone broad powers over your assets, including the ability to sell property and open and close bank accounts, may be overwhelming, it is vital. If you were to fall ill without a valid Power of Attorney in place, your family would need to petition the court to appoint a guardian, which can be a lengthy and expensive process. However the length and expense of appointing a guardian is not the major reason for avoiding it. When appointing a guardian, the judge may not choose the person whom you would have chosen to be your agent. In addition to this setback, the person appointed as your guardian may need to seek permission from the court to make decisions on your behalf that, under a valid Power of Attorney, they would have been able to make at once.

Major considerations when establishing a Power of Attorney are not only who should act as your agent but also what powers they should have. Our discussion will be continued next month in "The Power of Attorney: Options and Considerations."

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Elder Law Attorneys; Estate Planning & Administration Attorneys

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