

Overview of the Durable Financial Power of Attorney

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I recently spoke with a client who is taking care of her aging father. Complications following hip replacement surgery led to an 18 day hospital stay and two months of rehab for her dad. During that time, she was working full-time, taking care of her family, and also assisting her father with all of his medical and financial matters. Understandably, she described the situation as overwhelming. But she admitted it would have been much more complicated if her father had not named her as his agent under his durable financial power of attorney prior to his surgery.

An agent under a durable financial power of attorney (“POA”) is appointed by you to act on your behalf with regard to your property, business, and financial affairs. Your agent is legally permitted to perform acts that you designate, which may include simple tasks, such as paying bills and depositing checks, or more complicated tasks, such as managing your real estate, investments, or business.

If you do not have a POA in force when you become incapacitated, your family will need to ask a judge to establish a conservatorship for you. Court proceedings take extra time, and the reality with these situations is – you need someone to be able to act fast. Court proceedings are also generally more expensive from a cost perspective and are emotionally taxing.

Of course, who you name as your agent needs thoughtful consideration. Is the person capable of competently managing your assets? Does the person live close enough to manage your affairs efficiently and vigilantly? If the person is unable or

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unwilling to fill the role, who will you name as a back-up?

Unfortunately, today we deal with diseases that can cause disability before death. We also face the possibility of short-term disability, perhaps due to injuries sustained in an automobile accident. I've also prepared special purpose POAs for a client and his wife when they needed to close on the sale of their home while the wife was going to be out of the country for work.

My hope is that you will not need to rely on your POA once executed; however, not having one may force your family to the courthouse and cause delays. Although a POA is straight-forward, its absence can render a difficult situation even more overwhelming for those who are taking care of you and your affairs.

ABOUT THE AUTHOR - LISA M. LEHAN

I am a shareholder of Koley Jessen P.C., L.L.O., located in One Pacific Place. My practice is focused on estate and tax planning. Outside of the office, I enjoy spending time with my husband and our three children. For help with your family's estate planning needs, please contact me directly at 402.343.3881.