

Financial Planning

Powers of Attorney: Which Type Does Your Client Need?

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Everyone is a potential victim of dementia, and therefore clients and planners should take steps to deal with the possible legal complications involving dementia before it is too late to act effectively.

Dementia is the loss of memory and other mental abilities caused by physical changes in the brain that are severe enough to interfere with daily life, according to the Alzheimer's Association. Alzheimer's disease accounts for an estimated 60% to 80% of cases.

It's very important for clients to consult with an attorney to be sure the proper documents are in place before they start declining, says *Claudia Mott, a planner at Epona Financial Solutions in Basking Ridge, N.J.* These documents include a power of attorney, a living will and the correct HIPAA forms. Once completed, they enable a designated person to meet and speak with doctors, hospitals, care facilities, pharmacies and other parties.

POWERS OF ATTORNEY

According to ElderLawNet, an informational site founded by elder law attorney Harry Margolis, there are four main types of powers of attorney:

Limited. This gives someone else the power to act on one's behalf for a very limited purpose and for a very limited time, such as giving someone the right to sign a deed to property for oneself if traveling on that day.

General. This gives an attorney-in-fact all of one's powers and rights, such as the right to sign documents, pay bills and conduct financial transactions on one's behalf.

Durable. This can be general or limited in scope and is for use when one becomes incapacitated.

Springing. This allows an attorney-in-fact to act on one's behalf if the person becomes incapacitated, but it does not become effective until the person actually is incapacitated. Within this document, it's critical to clearly define the standard for determining incapacity and triggering the power of attorney.

'ONE SIZE DOES NOT FIT ALL'

"While many prepackaged do-it-yourself power of attorney forms are available, it is a good idea to have an attorney draft the form specifically for you," ElderLawNet states. "There are many issues to consider, and one size does not fit all." Clients often think that after they've designated a power of attorney, they've done their job and "everything is fine," says Laura West, a planner at West Financial Advisors in Nevada, Iowa. But sometimes the person assigned is not able to actually have the power of attorney, because some companies, including financial institutions, prefer that people sign their own power of attorney forms.

"I recommend that clients ask each of the companies holding their major accounts what they require," West says. "Power of attorney forms should also be amended as new issues arise, such as giving the person permission to manage Facebook and other social media accounts."

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