

# LEGAL EASE



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## **Plan ahead by choosing your power of attorney**

The economy melt-down and related issues seem to be more far-reaching than anyone could ever have imagined, except for those who experienced the Great Depression. However, our world is so much more complicated than it was during the Great Depression, with more rules, and less trust, that families will have their loved one's best interest in mind, especially when it comes to financial transactions. Failure to plan for incapacity can wreak havoc when family and friends are trying to help a loved one during this economic crisis.

Victoria E. Knight, author of a column called "Getting Personal" (a Dow Jones Newswires Column), recently wrote about how the market drop and estate gaps create havoc. She relates a story about an elderly woman who lost half of her \$6 million in savings, which had been held almost entirely in stocks. Her family looked on helplessly since this woman had no effective Power of Attorney document in place, and she had become incapacitated. She had named someone to help her in this type of situation, but that person had died, and no alternate had been named.

Every adult (i.e. over 18 years of age) should have Powers of Attorney for finances and Healthcare decisions. Incapacity can strike suddenly and not just for the elderly. As such, failure to name a trusted Agent, and an alternate to that Agent, might have disastrous consequences financially. If there is no one to make healthcare decisions, proper treatment may be delayed, or inappropriate measures may be taken. Someone to whom you would never have given the power if you had been able to do so, might be making healthcare decisions for you that are not in keeping with your wishes.

Powers of Attorney are extremely important, perhaps more important than your Will. It is also vital to choose your Agent carefully. This is the person who will "step into your shoes" to make financial decisions, if it becomes necessary for someone to help you. An Agent that you do not trust 100% is worse than no Agent at all, given the exploitation that can occur. However, a conversation with an estate planning attorney, and some reflection upon the importance of the choice of an Agent, leads most people to effective choices, even if it means using a corporate or a trusted professional as an Agent. Failure to execute a financial Power of Attorney could result in the need for a Court ordered guardianship. Guardianship proceedings are expensive, can take many months to complete, and may be very emotionally trying for the family, as well as the ward. The Court is then obligated to supervise the Guardian from then on. The appointed Guardian may not be the person you would have chosen had you made a choice.

Healthcare Powers of Attorney with Living Wills are also very important to be sure that your wishes for your healthcare are known and followed. You may find yourself in a situation with health care professionals who do not know you, and cannot determine the best course of action for you. Even more important than executing this document is the need to talk with your loved ones regarding your wishes.

Take the time to plan for the future, and relieve your loved ones of the stress of not being able to help you when it is most needed.