

Kathleen Martin is an attorney with O'Donnell, Weiss & Mattei, P.C., and a newspaper columnist for The Mercury, which gave permission for this article to be reprinted.

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Don't become a victim of poor life planning

Power of Attorney documents, both for finances and for healthcare, are extremely valuable and important tools in any person's estate plan. Wills are necessary to make sure that "the right thing goes to the right person at the right time and in the right manner," as one of my professors at Villanova was fond of saying. However, Power of Attorney documents are important in a different way. These documents protect your right to independence, even when you are not able to manage your own decision making, even temporarily.

Therefore, you could call preparing Power of Attorney documents "life planning." Every person over eighteen years of age should have these documents in place. One never knows when some catastrophe may occur, leaving the individual with no ability to pay bills, manage their finances, or communicate with healthcare professionals on their own behalf. Many elderly persons find that these documents allow them to have a trusted loved one handle their banking needs and issues when it is no longer easy to get out themselves.

Besides making the decision to have these documents prepared by an attorney well versed in the development of such documents, it is vitally important that the principal (the one who is writing the document and conferring the power) carefully choose his or her agent (the person or persons who can step into the principal's shoes and manage his or her affairs). The importance of carefully choosing an agent is illustrated by the following example.

In September, 2006, Attorney General Tom Corbett announced that agents from the Pennsylvania Elder Abuse Unit filed charges against Grace Telese Damon, age 41 from McKean County for stealing in excess of \$100,000 from her 73 year old mother. Maria Telese had appointed her daughter, Grace, as her agent under a 1999 Power of Attorney document. When Maria's husband died in 2000, Grace took over handling her mother's financial affairs. Despite the fact that Maria lived frugally, and that her husband had provided fairly well for her, by the fall of 2004, Maria's bank accounts were nearly empty, and she was left with insufficient money to purchase groceries or pay overdue utility bills. Grace is accused of withdrawing or transferring funds from her mother's bank accounts for her own benefit. Additionally, Damon is accused of emptying a trust account that had been created for her young daughter.

Attorney General Corbett noted that this was the second criminal arrest by agents from the Attorney General's Elder Abuse Unit, which was created in July, 2006. Corbett notes that "sadly, Pennsylvania seniors often suffer at the hands of those entrusted with their care."

This should not discourage anyone from having a Power of Attorney document, as this type of scenario does not happen to everyone. However, it is important that the principal choose his or her agent carefully. Also, it can be helpful to require your agent to provide other family members, or a third party, with regular accounting statements. A well written Power of Attorney will limit an agent's gifting power. Furthermore, it is wise not to have joint bank accounts with adult children. The child or children can then remove funds without the consent of the senior.

Don't become a victim by failing to plan adequately.