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WHY A DURABLE POWER OF ATTORNEY?

BECAUSE INSURANCE STATISTICS SHOW:

- a 22 year old is 7½ times more likely to suffer a disability of 90 days or more than to die
- A 62 year old is still 4¼ times more likely to suffer a disability of 90 days or more than to die
- one out of every two Americans will suffer a period of prolonged disability in his or her lifetime.

THE DURABLE POWER OF ATTORNEY CAN PROVIDE A SIGNIFICANT MEASURE OF SECURITY WHEN DISABILITY OCCURS.

WHEN



DISABILITY

STRIKES

THE DURABLE POWER OF ATTORNEY

WHY DO I NEED A DURABLE POWER OF ATTORNEY?

If you become disabled due to an accident or illness and you are deemed mentally incompetent, your business and personal affairs will more than likely have to be administered by a court-appointed guardian. The guardian may or may not be someone whom you would have chosen to attend to your needs. In fact, he may be a complete stranger! Plus, a guardianship can be expensive. The guardian will have to post a bond equal in value to your estate, and the premium for this bond will have to be paid out of your estate. The guardian will have to go to Court for permission to transact virtually any type of business transaction and he will have to demonstrate to the Court why the action which he desires to take is necessary and desirable. The guardian will also have to file annual accountings. Guardianships, then, are expensive, time-consuming and cumbersome; a very inefficient way to take care of your business and your personal needs when disability occurs.

The solution to this problem is the Durable Power of Attorney. With a valid, well-written Durable Power of Attorney your business and personal needs can be taken care of in an efficient manner at minimal expense.

WHAT CAN A DURABLE POWER OF ATTORNEY DO FOR ME?

It permits you to appoint someone to manage your affairs:

Management of Your Assets

The person you have designated in your Durable Power of Attorney can be given the power to manage your assets which could include such things as to:

- a. Write checks on your bank account and make deposits
- b. Pay your bills
- c. Have access to your safe deposit box
- d. Sign your tax return

- e. Make important decisions about your retirement plans - IRA's (eg: Rollover decisions)
- f. Make important decisions about your insurance (eg: borrow against the cash surrender value of a life insurance policy)
- g. Buy or sell stocks, bonds, mutual funds and other securities
- h. Buy or sell real estate; enter into, terminate or modify lease agreements
- i. Continue to operate or windup your business (pay employee's salaries, etc.)

Arrangement For Your Personal Needs

The person you have designated in your Durable Power of Attorney can be given the power to arrange for your personal needs which could include such things as to:

- a. Provide for you a residence (nursing home; private residence, etc.)
- b. Provide you with nursing care (employ nurses & physicians, etc.)
- c. Provide for your recreational needs (arrange for travel, etc.)
- d. Provide for the care and custody of your personal effects
- e. Provide arrangements for the care and custody of your pets
- f. Make pre-arranged funeral plans
- g. Provide for your religious needs consistent with your beliefs
- h. Take custody of your important personal papers (Will; Insurance papers; Certificates of Deposit; Stock certificates)
- i. Have access to your medical records

WHO CAN I DESIGNATE TO ACT FOR ME UNDER A DURABLE POWER OF ATTORNEY?

The person that you name (your "attorney in fact" or "agent") can be any person capable of transacting business. He or she need not be a licensed attorney at law. Quite often a person who is married will name his or her spouse as the "attorney in fact" and, if the spouse for whatever reason can not serve, an adult child is named as the alternate. The person you name should be someone in whom you have complete trust and confidence.

CAN MY "AGENT" OR "ATTORNEY IN FACT" MAKE MEDICAL TREATMENT DECISIONS FOR ME?

No. Medical treatment decisions are governed by another type of power of attorney called a "Medical Power of Attorney."

DOES THE DURABLE POWER OF ATTORNEY HAVE TO BE RECORDED?

Although the Durable Power of Attorney must be notarized and it can be recorded at the County Clerk's office, it does not have to be recorded to be effective. However, if real estate transactions are undertaken by the attorney in fact, the Durable Power of Attorney will need to be recorded in the County Clerk's office of the County where the land is located.

CAN I HAVE A DURABLE POWER OF ATTORNEY THAT DOES NOT BECOME EFFECTIVE UNLESS AND UNTIL I BECOME INCOMPETENT?

Yes. Texas law permits a Durable Power of Attorney to be a "springing" power of attorney which does not become effective unless and until you become incompetent.

ONCE I GIVE THE DURABLE POWER OF ATTORNEY—WHAT HAPPENS IF I LATER CHANGE MY MIND?

If you recorded the power of attorney, you may revoke the Durable Power of Attorney at any time by recording a Notice of Revocation with the County Clerk where you filed it. In any case, it would also be important to notify the attorney in fact and any third parties who had been dealing with your attorney in fact that you had revoked the Durable Power of Attorney.

WHERE CAN I GET A DURABLE POWER OF ATTORNEY?

An attorney knowledgeable about wills and estate planning should be able to prepare this document at a very reasonable cost.

WHERE SHOULD I KEEP MY DURABLE POWER OF ATTORNEY?

It should be kept where you keep your most important papers.