

Arizona Powers of Attorney 101

From time to time, clients will request that a Power of Attorney be prepared for a loved one or simply choose not to create one. Unfortunately, when these situations arise, the loved one is already mentally incompetent or incapacitated. So, it is good practice for estate planners to always include the various types of Powers of Attorney for a client as part of a comprehensive plan.

Financial Powers of Attorney

A Power of Attorney is an Agency relationship, where a Principal names another person to act on his behalf, with specified powers to carry out particular action. Powers of Attorney can be *immediate*, meaning that the Agents power to act is effective upon the Principals signing the document. Or, the Power of Attorney can be “springing” which means that the Agents powers only exist upon the occurrence of a specific event.

Financial Powers of Attorney is generally available for use in all situations regarding the management of a principal’s assets and financial affairs. In most instances, a Power of Attorney will not be questioned by a third party. However, since there is no law in Arizona which mandates a third person to accept the power of attorney because of a fear of potential litigation, these documents are not necessarily fail-safe. Nevertheless, when a Financial Power of Attorney is not accepted, an attorney can either certify in writing the current status of the document or seek an order from a Judge ordering compliance.

Health and Mental Health Care Powers of Attorney

A well drafted and comprehensive estate plan will include both Health Care Powers of Attorney and Mental Health Care Powers of Attorney. In Arizona if the Health Care Power of Attorney is to be used potentially for Medicaid planning, then the Agent must have the specific powers to make transfers and take other necessary actions relative to obtaining Arizona Long Term Care Services (ALTCS) eligibility so as to avoid an allegation of financial exploitation of a vulnerable adult. Otherwise, Arizona law will prohibit actions that may ultimately result in self-dealing.

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Likewise, most persons should consider utilizing a Mental Health Care Power of Attorney. Under Arizona law, a Health Care Power of Attorney covers all health care decisions except when a person must be either permanently or temporarily admitted to a mental hospital (Level 1 Behavioral Health Facility). In these situations, without a Mental Health Care Power of Attorney, an attorney will need to petition the Court for an emergency guardianship for purposes of admitting the individual to mental hospital. In many respects, this type of work can be costly but also avoided with

If you have questions about the above articles or are interested in scheduling an appointment with either Larry Deason, Esq. or Robert Way, Esq. for your estate planning, please call our office at 783-4575. Estate Planning... It’s What We Do!

Attorneys, Lawrence L. Deason and Robert M. Way are members of the American Academy of Estate Planning Attorneys (AAEPA)

The AAEPA is a national organization dedicated to promoting excellence in estate planning and providing its exclusive membership of attorneys with up-to-date research on estate and tax planning, educational materials, and other important resources to empower them to provide superior estate planning services.

The AAEPA expects all members to have at least 36 hours of legal education each year specifically in estate, tax, probate and/or elder law subjects. To ensure this goal is met, the Academy provides over 40 hours of continuing legal education each year.

For over 16 years, the AAEPA has been a highly-regarded and south-after resource for attorneys and consumers alike, and has been recognized by *Consumer Reports*, *Suze Orman* in her book, *9 Steps to Financial Freedom* and numerous times in *Money Magazine*.

Are Your Bank Accounts Safe? FDIC Insurance Can Cover You – With the Right Planning

Are you concerned about the safety of your bank accounts? If so, your fears are justified. Early in 2008, the Federal Deposit Insurance Corporation (“FDIC”), which insures bank deposits, reported the biggest jump in “problem institutions” it has seen since the Savings and Loan Crisis of the late 1980s. The FDIC identified 76 banks in trouble, a 52% increase from the prior year. In fact, some experts predict as many as 200 bank failures could occur in the next few years.

But there’s also good news. With proper planning you can protect your assets – even if you have considerable assets. **Call our office at (928) 783-4575 to schedule a FREE estate planning consultation to learn more. Our office can help you ensure your assets are covered in the event of a bank failure, as well as help you take advantage of changes in state and federal regulations regarding your estate plan. Call us to find out how we can help you determine the best way to protect your assets and plan for your family’s future.**



Larry Deason

At the Deason Law Firm, we are committed to building lifelong relationships with our clients and their families. We will work with you to customize your unique estate plan to protect, preserve and pass your legacy to your family and loved ones exactly how you desire. To eliminate any apprehension when planning, all our estate plans come with a 100% service satisfaction guarantee. It’s very simple - estate planning is what we do... and we look forward to your family joining our family.



Robert Way

This is a complimentary, educational newsletter. If you are NOT interested in receiving this information in the future, please contact Nancy at 783-4575.

*NEW Trust Code ...
How does this affect your Trust?*

Our seminars are said to be
"informative and easy to understand"
Thursday, May 13th at 9:30am and 6:30pm
FREE Estate Planning Seminars:



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