

ELDER LAW TODAY



THE FIELDS LAW FIRM, P.A. – SPECIALIZING IN ELDER AND DISABILITY LAW

110 Liberty Drive, Suite 202 • Clemson, SC 29631 • Phone: (864) 653-4090
33 Market Point Drive • Greenville, SC 29607

Special Report

LEGAL DOCUMENTS YOU SHOULD NOT BE WITHOUT! FIRST LEGAL STEPS

With your legal matters always plan for the future. You should complete important documents that will give you peace of mind and save you and your family money. It's critical that you authorize another person (e.g. a spouse, adult child, or close friend) to make decisions for you. And you should take this step now, while you're still able, so that you, and not some judge, can select the person best-suited to carry out your wishes.

As a "first legal step" it's important to seek help from an elder law attorney to put three documents in place:

1. Durable Power of Attorney

This document grants legal rights and powers to another. Choose someone you implicitly trust, such as your spouse or adult child, to act as your agent. If you become incapacitated, a durable power of attorney allows your agent to act for you in financial and business matters. **It's generally important to have this document prepared by an elder law attorney experienced in Medicaid planning.** Otherwise, your power of attorney may not allow your agent to do Medicaid planning for you when the time comes to legally protect your family's assets if that is an issue for your family. The state **Medicaid authorities require very specific language** to allow your agent to do the Medicaid planning **to protect your assets.** Most attorneys who do not do a lot of Medicaid planning are not familiar with the language needed.

2. Durable Power of Attorney for Health Care Decisions

With this document, if you can't make health care decisions yourself, another person of your choice can make a broad range of decisions for you. These

decisions cover virtually everything to do with medical matters, such as selecting doctors, hospitals, treatments, procedures or medications. The South Carolina Health Care Power of Attorney has a section to allow you to also make known your decisions regarding whether or not life support should be withdrawn under certain conditions, such as being terminally ill, similar to a Living Will.

3. Will

Many times this document may need to be updated or redrafted, especially the will of the spouse who is not ill in case that spouse dies first. **Special language needs to be in the will of the spouse not on Medicaid to protect assets if that spouse dies first.** This may be a big issue to some families. To others, it may not be as important.

CAUTION:

Without the powers of attorney, you may need a court-appointed conservator to handle financial matters and a guardian to handle health care ones. In that event, a court would control your personal and financial life. A judge would have to approve your decisions and expenses. This situation can easily be avoided if you act now and put proper powers of attorney in place.

In Service Training Available:

The Fields Law Firm offers in-service training on topics related to:

Division of Assets	Medicaid Planning
Guardianship	Powers of Attorney
Other Elder Law Issues	

Elder Law Today is written by Jackson E. Fields, Jr., Attorney at Law. This newsletter is published as a service of the Fields Law Firm, P.A. This information is for general informational purposes only and does not

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