



Who's Minding The Store?

By Thomas J. Vale

A sudden illness or accident may leave you temporarily incapacitated and your business and personal affairs in chaos. It may be necessary to go through costly and time-consuming court procedures to have a court appointed guardian or attorney granted authority to act in your place. At that point in time, you obviously would not be able to participate in the decision making process that would determine who would be minding your store, business or personal affairs.

A durable power of attorney is often thought of as an estate planning tool for the elderly, but it can be a simple and inexpensive tool for protecting younger individuals in the event of an incapacity. A power of attorney form can be drafted to grant another individual general or limited authority to deal with your affairs and act in your place. A general power of attorney gives the appointed individual broad powers while a limited power is more specific and may be limited to a few areas or even a single duty.

A durable power of attorney means that the power granted by the document continues even if the principal becomes incompetent. It eliminates the need for any court proceedings that might otherwise be necessary to have an individual appointed and it also allows the principal to name the individual he or she feels most comfortable with to manage their affairs. The power of attorney may be especially important for individuals running their own business where that business could suddenly be left without its leader and the person with authority to make important business decisions. Business partners or associates may have their hands tied by legal constraints and left unable to function as needed. By planning ahead, the principal can avoid a difficult situation that a spouse or other family member might have to face in the event of an unforeseen incapacity.

Many people prepare wills and buy insurance to guard against the consequences of an untimely death, but do nothing to plan for handling the problems that would arise in the event of a disability other than death. Insurance companies indicate that there is a greater probability of middle-aged person being disabled for a period of time that the probability of that person dying. If it makes good sense to plan for the handling of your estate and affairs after death, it certainly makes good sense to plan for the handling of your affairs in the event of a disability or incapacity.

