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## Avoid Going to Court with Proper Documents

### Caregivers Can Avoid Going to Court if They Have Proper Legal Documents

By SANDRA BLOCK

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If you're caring for an elderly parent, no task is more wrenching than asking a court to declare your parent incompetent to handle his or her affairs. Your mother could be forced to sit in a courtroom and listen to a judge take away her right to vote, drive and manage her money. You'll be required to prove that you aren't trying to steal your parent's money. And your private family business will become a matter of public record. Fortunately, this nightmare is avoidable. The key is to make sure your parents have authorized you or another individual to make decisions if they become incapacitated. There are two documents that achieve this goal:

- " Durable power of attorney for finances". This document authorizes you to pay bills, manage investments, collect government benefits, file taxes and conduct other financial transactions for a parent who is incapacitated.
- " Durable power of attorney for health care". This document lets you make medical decisions on your parent's behalf if your parent is unable to communicate with doctors. Some states let residents include their wishes for end-of-life care in this document; others require a separate directive for living wills.

Creating effective powers of attorney:

- " Most couples grant power of attorney to their spouses or partners. But your parents should also designate a backup agent in case the other spouse dies or becomes incapacitated", says Mark Shalloway, president of the National Academy of Elder Law Attorneys.
- " Make sure your power of attorney for finances provides you with enough authority to manage your parent's financial affairs". Craig Reaves, an elder-law attorney in Kansas City, Mo., says a power-of-attorney document that lacks specific instructions might not be honored by financial institutions.
- " Take advantage of the in-house power-of-attorney forms offered by many banks and brokerage firms. Even if your parent has a valid power of attorney, having a document on file at the bank would allow you to start writing checks right away instead of waiting for your bank to approve a separate document", says Liza Weiman Hanks, author of *The Busy Family's Guide to Estate Planning*.
- " Make sure your parents' powers-of-attorney documents are kept up-to-date. This is particularly important if they move, because state laws governing powers of attorney vary. Even if your parents don't move, the documents should be

reviewed every three years, or whenever there's a major change in your parents' financial situation".

- " Store the documents in a safe, accessible place. If your parents keep the documents in a safe-deposit box, you probably won't be able to open it without their permission a problem if they're incapacitated. Just make sure you know how to get the documents quickly", Shalloway says: "A perfectly well-drafted document is useless if we can't get our hands on it."

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