Five Safeguards to Consider Adding to Any Power of Attorney for Finances

Every Power of Attorney should be carefully tailored to the needs of the individual creating the power (called the principal). Because of the potential for misuse of powers by the person named as one's agent, the selection of a trusted person to act as your agent is by far your most important decision. Regardless of whom you pick, consider including the following safeguards:

1 Require an inventory of assets when your agent begins managing your affairs.

This provides a baseline for future comparison. Require that it be shared with a trusted 3rd person you name.

2 Require some form of annual accounting by a trusted 3rd person.

Powers of attorney normally have no monitoring or oversight after the principal loses capacity. Having a second set of eyes on the money provides a higher level of transparency. Accountings should at least provide an inventory of assets and documentation of the dates, nature, and amount of all financial transactions.

3 Appoint co-agents or require a second signature for large transactions.

Two agents can help spread the burden of responsibility and creates some checks and balances, but the agents must be able to work together. Alternatively, approval by a trusted 3rd person for large transactions provides one extra step to ensure the appropriateness of large transactions, such as the sale of a home, or sale of a large investment.

4 Clearly define the power of the agent to make gifts.

The safest option is to prohibit gifts, but many people want to continue their pattern of giving even after they lose capacity. Limiting gifting requires identifying the permitted recipients or class of recipients and limits on the amounts and frequency.

5 Limit any changes to beneficiary designations.

This may include rights of survivorship under bank accounts, or changes in beneficiary designations under wills, trusts, life insurance policies, annuities, investment portfolios, or other instruments.

Did You Know?

- More than 10% of older persons living in the community report experiencing some form of abuse or neglect in the past year, with the most frequent form being financial exploitation by family members.
- Elder abuse of all forms is underreported. Estimates of reporting range from only 1 in 5 to 1 in 23 cases.
- Financial abuse costs older Americans more than $2.9 billion annually.