

AUTHORIZATION TO DO PLANNING

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**Timothy P. Crawford past Board Member and Current Member of the
National Academy of Elder Law Attorneys**

*** Attorney Timothy P. Crawford has
been Board Certified as an Elder
Law Attorney by the National Elder
Law Foundation which has been
approved as the Sole Certifying
Organization for Elder Law Attorneys
by The American Bar Association**

This pamphlet is issued to inform, not to advise. This pamphlet is not intended to render specific legal advice. For specific legal advice, see Attorney Timothy P. Crawford.

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THE ISSUE

In most circumstances, adults have the legal power to make their own decisions. One of the most enduring decisions a competent adult can make is to select someone else to take over this power when necessary.

The usual way to give another person authority to make decisions for you is to execute a Durable General Financial Power of Attorney. If the Power of Attorney meets certain requirements, it may continue in effect even though you later become incapacitated. Such a Power of Attorney is “Durable.” Failure to designate another person to make decisions after your incapacity may mean that Court proceedings are required.

Some Powers of Attorney are restricted to financial matters, while others give authority to make medical decisions. The latter is referred to as a “Health Care Power of Attorney.” Generally, the title of the document is less important than its contents.

The signer of a Power of Attorney is usually referred to as the “Principal.” The person to whom the power is granted is called the “Agent” or “Attorney-in-Fact.” It is often wise to name an Alternate Agent on Powers of Attorney to act if the named Agent is unable to serve.

WHAT YOU NEED TO KNOW

A PROPERLY DRAFTED Power of Attorney may preclude the need for Court action, and may save substantial legal expense and invasion of privacy in the event of incapacity.

Despite general and sweeping language in my Power of Attorney, the law in Wisconsin does not require third persons to honor the power. Problems are especially frequent when trying to deal with real estate transactions, tax returns and government bonds. Powers of Attorney are more likely to be honored if they have been prepared by an attorney and are very specific.

When acting under a Power of Attorney, the Agent will ordinarily sign documents by referring to the power. The Agent must be prepared to fully account to the signer of the Power of Attorney or the Court. Other than receiving a fee, the Agent is not permitted to benefit personally from the Power of Attorney, except to the extent specifically permitted by the document.

WHO SHOULD HAVE A POWER OF ATTORNEY?

Every person 18 years of age and older should have a Power of Attorney. At 18, a parent loses the right to make health care and financial decisions for their child. Only the Court can make the decision. The decisions the Court can make are very limited. You may want to order from Attorney Timothy P. Crawford a Power of Attorney for your child and grandchild. You may want to buy a gift certificate for a Power of Attorney from Attorney Timothy P. Crawford, and give it to your child or grandchild.

WHAT SHOULD YOUR POWER OF ATTORNEY AUTHORIZE YOUR AGENT TO DO FOR YOU?

Your Agent should be authorized by you to write checks and to manage your financial affairs. Your Agent should have authority to do planning for you to protect your assets if you become incompetent. Your Agent should be allowed to make planned gifts for you to allow you to get free nursing home care or to reduce your death taxes.

Your Power of Attorney should be at least 10 pages long so that it can be very specific.

A well-written Power of Attorney will usually prevent the need for the Court to appoint someone to run your financial affairs. A Power of Attorney can be prepared for a small fee.

THE ROLE OF THE ELDER LAW ATTORNEY

Elder Law Attorneys usually have particular experience in drafting and enforcing Powers of Attorney. The Agent under a Power of Attorney may also need legal advice or representation. Sometimes, interpretation or enforcement of a Power of Attorney (or recovery against an Agent who has misbehaved) may require Court proceedings, and Elder Law Attorneys are familiar with such actions. In choosing an attorney to prepare, defend or enforce a Power of Attorney, be sure to ask whether he or she has experience in such matters.

What Is A Certified Elder Law Attorney?

Less than 20 attorneys from the State of Wisconsin have passed the national exam out of over 800 Elder Law Attorneys that we have in the State of Wisconsin.

Attorney Timothy P. Crawford was the first Attorney to have passed the exam to become **Board Certified**. He has been **Nationally Board Certified** as an **Elder Law Attorney** by the National Elder Law Foundation which has been approved as the Sole Certifying Organization for Elder Law Attorneys by the American Bar Association.

What Is Your Next Step?

To get more information concerning the above, call for your free conference. Please call Attorney Timothy P. Crawford at 262-634-6659. We have offices located in Brookfield, Glendale, Milwaukee, Oak Creek and Racine.

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