



ELDER LAW AND ESTATE PLANNING

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Handling incapacitated father's financial affairs does not require living nearby

Question: My father made me his attorney in fact under his durable power of attorney several years ago. He has since developed Alzheimer's disease and is declining, fortunately slowly. I've been handling his financial affairs for many months, but I can't do it much longer because I will soon relocate out of state for my work. The backup to me is my sister. She lives near my father, but I do not think she is financially knowledgeable enough to take over. My question is, as his agent, do I have the right to skip over my sister and name a new agent for him?

Answer: No. Your father put his wishes in writing when he was competent. You do not have the legal authority to override his wishes by naming a new backup.

However, your question presents a more central issue. You seem to be under the impression that you must live locally in order to effectively handle your father's financial affairs. This is not the case. Most of our clients do not have the luxury of having children nearby to assist them. Fortunately, in this day and age, with email and online access to virtually every account, business relationship and financial institutions, you could readily handle your dad's assets, bill-paying and other financial responsibilities from

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With regard to your sister, notwithstanding your assessment of her financial sophistication, if she has basic integrity and honesty, she could be very helpful. Even if you continue as your dad's agent, since she is local she can verify that services your dad is billed for are actually being performed. For example, she could check that the landscaper is in fact mowing the lawn. She could verify that his home health aide is showing up on the days and at the times that have been agreed upon, and performing all the required duties.

Good luck!

Joseph Karp and Jonathan Karp are Florida Elder Law and Estate Planning Attorneys. The Karp Law Firm is located in Palm Beach and St. Lucie counties. It assists clients with wills, trusts, Medicaid and VA benefits planning, special needs planning, asset preservation, probate/trust administration, estate litigation, and probate and elder law mediation.