

BASIC ESTATE PLANNING, PART SIX: HEALTHCARE POWER OF ATTORNEY

By Jim Silbernagel & Tony Jasen

Real Wealth® Radio Network

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(Note: The following is the Real Wealth® Radio Network's response to an email from Randy in Fond du Lac and a call from Theresa in Mayville.)

Randy from Fond du Lac wrote to tell us that his father had a stroke. He didn't have either a financial power of attorney or a health care power of attorney. Randy and his family didn't feel that the care their Father was receiving was up to their standards and wanted to move him. They looked into other nursing homes and found an alternate facility they felt would offer better care. Here's where problems began. When the family notified the nursing home where his father was staying that they wanted to transfer him, they refused to do so without a health care power of attorney or court guardianship. The guardianship process involved two attorneys. The courts appointed an attorney, called an attorney ad litem, and the family had an attorney representing the family's interest. It took 45 days of hearings to get approval for the family to be appointed guardian for Randy's Dad. Fortunately, they were able to transfer his father to the better facility at that time.

Randy wrote, in part, "Please make sure all of your listeners and readers take heed and have proper health care powers of attorney for their parents, themselves and their kids, if they're over 18, so they don't have to go through what we had to go through as a family."

We also recently received a call from Theresa in Mayville about a health care power of attorney. Theresa noticed that her family member's wishes and desires were all listed in the document and wanted to make sure everything was in order. We've seen this type of situation many times when reviewing health care powers of attorney with a Real Wealth® attorney. People often include language such as, 'Do not resuscitate me if I'm terminal' or 'Do not take life-sustaining measures if I'm terminal.' That may sound self-explanatory, but it can lead to questions like, 'What is terminal?' or 'What is life-sustaining?' We're all terminal, whether we have a month, a week, a year or 20 years. And, what is considered life-sustaining? Is blood pressure medication life sustaining? What about diabetes medication? Where do you draw the line? Who decides what is actually meant? Anything that is subject to interpretation can be cause for problems down the road and we strongly recommend it not be included in the health care power of attorney document.

As we've discussed in our previous articles, the health care power of attorney appoints someone to carry out your wishes in the event you become incapacitated. You are giving them the authority to make decisions on your behalf. And, when you start putting specific instructions into the document, it becomes up to the doctors, the hospitals and then the courts to decide where the authority begins and ends. That's why the attorneys we've worked with over the years have always strongly recommended that you give your powers of attorney, called agents, any specific desires or wishes outside of the legal document. It is imperative to understand how to properly draft these powers of attorney so that they can do what you want when you need it.

Remember, a team of Real Wealth® Advisors can easily assist you with the specific language, or clauses, you could include in your power of attorney and they can guide you through the entire estate planning process. It is important to work with a qualified attorney who has spent a lot of time working in the area of estate planning and family issues rather than a general practitioner. A financial advisor can act as a quarterback, working with your attorney and accountant to help you best take advantage of your individual financial circumstances.

About *Real Wealth*® Radio

Jim Silbernagel and **Tony Jasen** lead Wisconsin's only statewide, homegrown Real Wealth® Advisor Network and have been conducting their Financial Talk Show since 1990. They have garnered a reputation as down-to-earth financial professionals who look well beyond the obvious product-driven environment associated with Financial Planning to the *real* life issues of wealth. Their vision is to educate their listeners on the deeper issues of wealth management and its relationship with their life, specifically their stage in life, and to help people maximize life from *Real Wealth*®.

Ask for your free consultation today by calling toll free **(877) 825-7579** or by visiting the *Real Wealth*® web site, www.realwealthradio.com or drop them a note at PO Box 445, Kewaskum, WI 53040. And don't forget to tune in to *Real Wealth*® Radio with Jim and Tony on WBKV, AM 1470, every Saturday from 11-12 (repeat Sunday from 8-9) or on WTKM, FM 104.9 and AM 1540 Fridays from 3-4 and LIVE the first Friday of every month from 10-11am.

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