



Pioneer Bank & Trust

Trust & Investments

Local.

704 7th Ave, PO Box 729
Belle Fourche, SD 57717-0729
Phone (605) 892-3494
Fax (605) 892-2115

2001 W Omaha St, PO Box 9189
Rapid City, SD 57709-9189
Phone (605) 341-2265
Fax (605) 341-7425

140 E Jackson Blvd, PO Box 10
Spearfish, SD 57783-0010
Phone (605) 642-2725
Fax (605) 642-1736

The trouble with powers of attorney

Reportedly the incidence of Alzheimer's disease among those 85 and older is about 47%. This population needs help with financial management. Perhaps the most common tool to permit a family member to assist with handling an elderly person's assets is the power of attorney. Unfortunately, the power of attorney can also be an avenue that leads to financial abuse of the elderly. Attorneys Martin Shenkman and Jonathan Blattmachr outlined steps that may be taken to head off such problems without compromising flexible financial management for the elderly person ("Powers of Attorney for Our Aging Client Base," published in the July 2015 issue of *Trusts & Estates* magazine). Among their recommendations:

- *Joint agents.* Checks and balances for the power of attorney may be created if more than one person must sign off on the exercise of the power. Although this may limit quick decisions in the event of an emergency, the tradeoff for greater security may be worthwhile.

- *Care managers.* An independent care manager may be hired to evaluate the elder periodically to report to the elder's health care agent. The care manager can determine whether the appropriate care is actually being provided to the elderly person.

- *No more gifts.* In the usual case, one who holds a power of attorney cannot make gifts of the elderly person's property. However, the power of attorney may be drafted to specifically allow for such gifts, if that is desired. In the days when the federal estate tax kicked in at much lower levels, some estate planners routinely advised that gifting powers be included in a power of attorney, so as to begin putting an estate plan into effect and to control death taxes. The authors make a persuasive case that, given today high federal estate tax exemption, such gifting powers should no longer be routinely included in powers of attorney. The income tax benefits of holding property until death are far greater than the potential estate tax savings for all but the largest estates. What's more, gifting powers have been a specific source of elder abuse.

- *Living trusts.* It is becoming more and more common for elderly clients to outlive their spouses, siblings and friends. That creates a dilemma if there are no children nearby. The authors suggest, "The use of a funded revocable trust that names an institutional co-trustee or successor trustee can provide a viable solution for clients fitting this profile."

We are that "institutional co-trustee or successor trustee." It's always nice to receive recognition of the value of our services from experts in estate planning. We'd be very pleased to tell you more about how our services may benefit you and your family over the generations. Please arrange for an appointment with one of our officers at your convenience.

(August 2015)

© 2015 M.A. Co. All rights reserved.