

What We Know

ARTICLES & INSIGHTS

ABOUT THE AUTHOR

What Can You Do to Protect Your Elderly Parents' Assets?

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Did you know that we're only a few decades away from having the highest number of senior citizens in the U.S. that we have ever seen? According to the Pew Research Center, by 2060 there will be just as many people over the age of 85 as under the age of 5. While this dramatic shift is happening around the world, the trend is far more pronounced in the U.S., largely due to longer lifespans and lower birth rates. Longer lifespans mean ballooning health care costs and depleting retirement savings, and in some cases, these will put additional strain on adult children.

If you have elderly parents, you may be asking – "how can I protect my elderly parents' assets in the event they are unable to make financial decisions for themselves?"

The simplest safeguard is for aging parents to set up a 'Power of Attorney'. A Power of Attorney is a legal document in which person A appoints person B to act on their behalf. In the event that one or both parents are incapacitated, a Power of Attorney grants authority to the person of the parents' choosing to deal with financial decisions. Parents will often appoint a son or daughter to serve as their Power of Attorney. With a Power of Attorney in place, you can rest assured knowing you have the legal authority to protect your parents' assets should they become incapable of making financial decisions for themselves.

WHAT IF YOUR PARENTS ARE UNABLE TO MAKE FINANCIAL DECISIONS FOR THEMSELVES AND DON'T HAVE A POWER OF ATTORNEY ALREADY IN PLACE?

You may have to consider petitioning to the Court to be appointed Guardian of the Estate. In North Carolina, Guardians of the Estate are appointed for the purpose of maintaining a person's property, estate, and business affairs. This process is more lengthy and cumbersome than obtaining a Power of Attorney, but becomes necessary if it is too late to obtain a Power of Attorney. As the Guardian of the Estate, you will have the ability to, among many other powers allowed under the law, receive assets due to your parents, abandon or relinquish rights in property under certain circumstances, take possession of your parents' assets for their benefit, vote shares of their stock and many others. You will need the court's permission to be the Guardian of the Estate and

the court will require that you provide a regular accounting of all monies in and out of the estate.

Fortunately, you can protect your parents' assets if they become unable to do so. The key is to have those conversations before situations arise.

If you have questions or would like more information on this topic, please contact attorney Cara B. Williams at 919.250.2173 or by email at cwilliams@smithdebnamlaw.com.

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