



## PRE-PAID LEGAL PLAN

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## **POWER OF ATTORNEY**

**A** “Power of Attorney” is a written document in which an individual, referred to as the “Principal”, designates an individual, referred to as the “Agent”, to exercise enumerated powers and perform covered acts for the sole benefit of the Principal. The Principal must be eighteen years of age or older to execute a Power of Attorney and also possess the mental capacity to understand the purpose of the document and appoint Agent(s).

Once a Power of Attorney is in effect, the designated Agent acts for the benefit of the Principal. It is important for the Principal to select an Agent who is trustworthy and competent to handle the Principal’s affairs. A Power of Attorney is in effect only during the Principal’s lifetime. Upon the Principal’s death, the designated Agent no longer has authority to act under the document.

In Pennsylvania, the Power of Attorney document must contain a special “Notice” that is found on page 1 of the document. The Notice details the broad powers that the Principal is giving to the Agent under the document, such as make decisions regarding property, finances, management, banking, business and various other matters on behalf of the Principal. In addition, the Agent must sign a special form acknowledging certain responsibilities. This Acknowledgment is intended to keep the Agent from abusing his or her authority under the document. The Power of Attorney must be signed by the Principal in the presence of a notary and two independent witnesses, who are eighteen (18) years of age or older.

There are different types of Powers of Attorney. A “Springing” Financial Power of Attorney takes effect in the event the Principal is incapacitated and as a result of the incapacity the Principal is unable to handle his or her financial affairs. Incapacity is a medical determination to be made by the Principal’s physician. An affidavit must be signed by the Principal’s physician and attached to the Power of Attorney, in order for the designated Agent to act. It is common for a spouse to serve as the Principal’s financial Agent and then to name an adult child or children in the event that the spouse dies or is unable to act.

A “Durable” Power of Attorney serves the same purpose as a “Springing” Power of Attorney. However, in a Durable Power of Attorney, the Principal/Agent relationship remains in effect even after the Principal becomes disabled or incapacitated. If incapacity should strike the Principal, the Agent can maintain the Principal’s financial affairs, without any need for court involvement.



A Healthcare Power of Attorney acts as a waiver of the HIPPA medical privacy regulations enabling the Principal’s designated Agent to have access to his or her doctors and medical records. In the event that the Principal is unable to give an informed consent for treatment as the result of illness, incapacity or unconsciousness, his or her medical Agent is authorized to make such important medical treatment decisions for the Principal.

There are also Powers of Attorney for the sale and purchase of real estate. In such documents, the Principal selects an Agent to act on his or her behalf to complete a real estate transaction.

A Power of Attorney can be broad or limited. Since the Power of Attorney document is tailored for specific purposes, the Agent cannot act beyond the scope designated in the document.

While we cannot predict whether we will have diminished mental capacity or become physically disabled as we age, it is important to prepare for these events and appoint Agents to handle your financial and medical affairs.

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## **HIRING A CONTRACTOR**

**A**lthough hiring a reputable contractor to perform work at your residence should be easy, many consumers find it to be a difficult process. With that in mind, there is one Pennsylvania Law, The Home Improvement Consumer Protection Act, 73 P.S. § 517.1 *et seq.*, that was established to help consumers in their dealings with contractors. By knowing your rights, you can help ensure that your next contractor will treat you fairly.

The Home Improvement Consumer Protection Act (HICPA) was established to help defend people from the unscrupulous practices of certain contractors and scam artists. HICPA establishes a mandatory registration program for contractors who offer or perform home improvements, requires contractors to provide their registration number on their contracts, establishes required contract terms for home improvement contracts, and prohibits unfair business practices. This means that before signing a contract, you should make sure that your prospective contractor is properly registered with the Bureau of Consumer Protection of the Pennsylvania Attorney General's Office. You can check online at:



<http://hicsearch.attorneygeneral.gov>.

Moreover, under HICPA, every contract for home improvement needs to be written, legible, and signed by the consumer and the contractor. Contracts must also include important provisions,

including the total price of the project, estimated start and completion dates, and a description of the work and the materials to be used. A copy of the contract must be provided to the consumer at the time it is signed, and if any change in the project is made, a written change order must be signed by both parties. Further, the law limits down payments on a home improvement job to no more than one-third of the total contract price. You can view the entire law, which contains other important provisions, at:

<http://www.attorneygeneral.gov/hic.aspx> and clicking on the Home Improvement Law link.

Here are some simple steps to follow when hiring a contractor:

- Get three written estimates from licensed contractors before deciding who to hire in order to get the best price;
- Make sure the contract is signed by the contractor and you and keep it in a safe place.
- Once you decide on a contractor, make sure you understand the contract before signing and keep a copy of the contract in a safe place;
- Remember that down payments on home improvement jobs are limited to no more than one-third of the total contract price;
- Make sure that the work completed is done in a satisfactory and workmanlike manner before paying the contractor the next installment of money due;
- If the contractor does poor work and refuses or is unable to fix problems, find a new contractor to fix the problems and finish the job.

Lastly, if a deal appears too good to be true, it probably is. No person wants to go through the hassle of trying to get money back from a contractor for a job done poorly. By knowing your rights, you can hopefully avoid the pitfalls that can

come with home improvement work and hire the right contractor for your needs.

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## **HOW TO HURT AND HELP YOURSELF IN A CUSTODY CASE**

**F**or a parent or guardian, one of the worst situations imaginable is to be involved in a contested custody case regarding your child. Unfortunately, for many families, going to court for custody is unavoidable. If that happens, the first issue for many parents and guardians is what, if anything, to say to the child about the case. Here are some suggestions to keep in mind:

1. Don't discuss the case with the child. This is perhaps the easiest rule to understand and the most difficult to keep. There are many situations that come up and seem to require that you or another family member discuss custody with a child. Most often, one parent will become aware that the other parent (or family member) has been speaking to the child; asking the child who they want to live with, questioning them about things happening in the other parent's household, telling the child that he/she will have to speak to a judge, or, in the more extreme cases, promising the child something if they will say they want to live with that person.



The natural response is to counteract what the other person has said to the child, to explain "your" position to the child. This is wrong for a couple of reasons. First, and most importantly, is the effect that these conversations have on the child. This must be your priority, and not "setting the record straight". The second reason not to respond in kind when you discover someone has been speaking to (or coaching) the child, is the impression this behavior will have on the court. Custody judges are very experienced, and most can tell right away if a child has been coached in any way. If both parties are discussing the case

with the child, the court will form a negative impression of both sides. However, if you go in to a hearing with "clean hands", you will be a step ahead with the court.

2. If you discover that the other side is speaking with the child about the custody case, the best response is something general. Don't tell the child that the other parent is bad to speak to them. Better to say something like, "I'm sorry Mom/Dad/Grandmom spoke to you about this. You don't need to worry about this. This is grown-up stuff." This naturally leads into what to do if the child persists, or asks you whether or not he/she will have to speak to the judge, or seems to be nervous or worried about what will happen in court. Again, the best answer is a general one: "I don't know. The judge is going to help the grown-ups figure all this out. They may want to meet you to say hello because they've heard so much about you."

If the child asks what they should say to the judge, the best answer is to tell the child to tell the truth. These days, judges rarely ask a child directly who they want to live with. Instead, the judge may ask the child if anyone has talked to them about coming to court, or whether or not either party has told the child what to say to the judge. The only thing you want the child to say to the judge about you is, "My Mom/Dad told me to tell you the truth."

3. Remember that the way in which a child hears and understands a statement is not the same as an adult. Children are very literal in answering questions. For example, if you are represented by an attorney in your custody case, the attorney will meet the child, at the very least on the day of the hearing. The attorney may simply say "hello" to the child. When the child speaks to the judge, the judge may ask the child if either of the attorneys has spoken to the child. The judge means to ask whether either attorney has discussed the case with the child, but this is not what the child hears. The literal answer is "yes", the attorney has spoken with the child. And, again, this creates a negative impression with the court.

In dealing with children and custody matters, parents and guardians also have to take care in speaking to other adults about the case in the presence of the child. Just because you do not speak directly to the child does not mean that the child is not listening to your conversation. Remember again that children interpret things differently than adults. A child will repeat what they think they heard, and this may not be accurate.

The first concern of every adult in a custody matter is and should be the best interests of the child. Parties in a custody case need to remember that this standard applies in their every day interactions with the child and not just in the courtroom.

Feel free to call upon us to represent you in any legal matter, which is not covered by your Legal Services Plan. Union members who retain our firm to represent them in matters not covered by their Legal Services Plan, are not only provided with high quality legal representation but also receive a reduction in our contingency and hourly fees.

**CAUTION**

These articles are not a substitute for individual legal advice from a lawyer. The information presented here is believed to be accurate, but laws vary between states and every legal situation is different.

**For legal service, contact**



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