

Power Of Attorney: No Guardian Needed.

The elderly patient had signed a power of attorney giving her daughter authority to manage her affairs if she became incapacitated.

The patient suffered a stroke which left her bedridden and uncommunicative. She spent several months in the hospital, then went to a rehab center and then to a nursing home.

Due to the fact the patient was completely incapacitated, the hospital's legal staff went to court and petitioned for appointment of an independent guardian to take over the patient's financial affairs in place of her daughter.

The New York Supreme Court, Appellate Division, ruled that the hospital acted improperly. As long as the family member designated by the patient in her healthcare directive is managing the patient's affairs competently and not using his or her position to profit at the patient's expense, intervention into his or her actions is not appropriate. *In re Nellie G.*, __ N.Y.S.2d __, 2007 WL 678256 (N.Y. App., March 6, 2007).