

Frequently Asked Questions About Powers of Attorney ©

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What is a power of attorney?

A power of attorney is a written document authorizing someone else (your agent) to act on your behalf (the principal). The purpose of giving someone such a power is to enable the agent to act on your behalf when you cannot act for yourself.

There are different types of powers of attorney. A power of attorney can be *general* (allowing the agent to do anything that you could legally do) or *limited* (limiting the agent to a specific authorized act). A general or limited power of attorney is revoked by state law upon disability. A *durable* power of attorney remains effective even if you become disabled or incapacitated.

Do I need a power of attorney?

Yes, everyone should have a power of attorney, and it should be signed prior to disability or incapacity. A properly executed durable power of attorney can eliminate the need for guardianship or conservatorship proceedings in probate court if you become unable to handle your own affairs.

Great care should be taken when choosing someone to act as your power of attorney since this person will have access to all of your personal and financial information. The person should be honest, reliable and responsible. Before naming someone as power of attorney, you should first ask if they are willing to serve in that role.

Do I need an attorney to create a power of attorney?

An attorney is not required to create a power of attorney. However if you decide to make documents yourself, you should consider consulting an attorney to review them to make sure they comply with state laws.

What are the pros and cons of powers of attorney?

Pros

- Establishing a power of attorney is inexpensive
- They are private, unlike probate proceedings
- They can eliminate the delay and costs of guardianship or conservatorship proceedings in the probate court
- You have greater control over who will manage your affairs and property, and the powers they will possess
- Your wishes are followed, not those of the court

Cons

- The agent must be carefully chosen, since there is no court supervision
- Some banks or financial institutions may not accept the power of attorney if it is not properly drafted