

The Need for Power of Attorney

POAs and other advanced directives are becoming more important.

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The point of the POA. A power of attorney (POA) is a legal instrument that delegates an individual's legal authority to another person. If an individual is incapacitated, the POA assigns a trusted party to make decisions on his or her behalf.

There are *nondurable*, *springing*, and *durable* powers of attorney. A nondurable power of attorney often comes into play in real estate transactions, or when someone elects to delegate their financial affairs to an assignee during an extended absence. A springing power of attorney "springs" into effect when a specific event occurs (usually an illness or disability affecting an individual). A "durable" power of attorney allows an assignee, or agent, to act on behalf of a second party, or principal, even after the principal is not mentally competent or physically able to make decisions. Once a principal signs, or executes, a durable power of attorney, it may be used immediately, until it is either revoked by the principal or the principal dies.¹

Keep in mind this article is for informational purposes only. It's not a replacement for real-life advice. Make sure to consult your legal professional so you can better understand what type of powers of attorney is a best fit for your situation.

What the POA allows in financial terms. Financially, a Power of Attorney is a tremendously useful instrument. An agent can pay bills, write checks, make investment decisions, buy or sell real estate or other hard assets, sign contracts, file taxes, and even arrange the distribution of retirement benefits.

Advanced healthcare directives: HCPOAs and Living Wills. Some illnesses can eventually rob people of the ability to articulate their wishes, and this is a major reason why people opt for a Health Care Power of Attorney (HCPOA) or a living will. There are differences between the two.

A Health Care Power of Attorney (also called a "healthcare proxy") allows an agent to make medical decisions for a principal, should they become physically or mentally incapacitated. A living will give an assignee similar power of decision, but this advanced directive only applies when someone faces certain death. The assignee has the authority to carry out the wishes of the incapacitated party. Much better than inter family argument or being told by the medical professionals they will use their judgment.

Would you like to learn more? It may be time to meet with an attorney who specializes in these issues. We can help you find one who has assisted families with estate planning, elder law planning and/or with legacy planning.

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Citations

1. AgingCare.com, August 23, 2021