



MAY THE POWER BE WITH YOU

Put simply, a Power of Attorney is a legal document that allows another person to act on your behalf. There are two different types of Power of Attorney (POA) arrangements. They include a General POA and Enduring POA. The differences are important to note for the purposes of estate planning.

Types and uses

Under a General Power of Attorney you appoint someone to act for a specific period of time, or for a specific purpose. For example, if you are taking an extended trip overseas, you can appoint someone to look after your affairs at home. You may also appoint an attorney to settle a property purchase for you. About the only things your attorney can't do is to make a will or enter into a contract of marriage on your behalf. General POA cease to be effective, however if you lose your mental capacity.

An Enduring Power of Attorney acts in the same way as a General POA but it has the advantage that if you lose the capacity to make decisions for yourself your attorney will be able to do so. Enduring Powers of Attorney can cover your financial affairs, or, with an Enduring Power of Guardianship, your nominee can also make decisions regarding lifestyle issues such as where you live.

In many states, Enduring Powers of Attorney (Medical Treatment) may also be implemented. These can help you ensure that your wishes in relation to medical treatment will be taken into account if you are unable to express those instructions yourself.

Appointing or revoking an attorney

Although the person you appoint as your attorney has a legal obligation to act in your best interests, it is obviously important that you trust your nominee and are confident that they understand and will respect your wishes. In many cases you can appoint joint attorneys, and even stipulate that they must agree on any decision.

Most people appoint a spouse, partner, adult child or other trusted family member as their attorney. In some cases, professionals such as an accountant or lawyer may fill the role.

A Power of Attorney may be revoked simply by telling your nominee that they are no longer your attorney and the original and all copies of the POA form should be destroyed.

Establishing a Power of Attorney

Enduring Powers of Attorney will often be prepared by a lawyer at the same time as wills are made, although relevant forms can also be obtained from legal stationers or downloaded from the websites of relevant state government authorities.

Although the chances of accidental disability appear remote, in the interests of your financial and lifestyle well being should the unfortunate occur, implementing an Enduring Power of Attorney is highly recommended. The rules vary from state to state, so depending on the type and scope of the Power of Attorney, it is beneficial to seek professional advice.

Helping you build yours.

