

Powers of Attorney: Why They Matter and How They Work

If you're someone who wants a say in how your financial, business, and household affairs are managed, and who manages them, should you be unable to do so, if you want to dictate how certain decisions about your health and well-being will be made, and who will make them on your behalf, should you lose the capacity to make those decisions yourself, then it's important to put all that in writing, in legal documents that are known generally as powers of attorney.

Powers of attorney refer not to a certain lawyer's superhero attributes but rather to the legal authority a person (known in legalese as the "principal") assigns to another party (such as a spouse, family member, friend, trusted adviser, attorney, etc.), giving that party the power to make decisions on behalf of, and execute the wishes of, that person, in circumstances where that person is not in a position to make those decisions for himself or herself, as a result of being incapacitated, for example. The party to which the principal confers power of attorney thus becomes that person's agent or "attorney-in-fact."



Powers of attorney can be applied broadly or narrowly. They can be structured to apply to specific functions in specific circumstances for specific periods of time. They are a vital legal and planning tool for people who want to ensure that their wishes are carried out, their assets are handled in a certain way, their intentions are fulfilled, and their interests are protected should they be unable to do so themselves. Without powers of attorney in place, those responsibilities can default to the legal or judicial system, where a person's wishes, intentions and interests may be open to greater scrutiny, interpretation and thus, uncertainty.

For the clarity that powers of attorney documents, as well as a will, provide to others about your wishes and intentions should you be unable to communicate them yourself, it's critical that adults incorporate them into an estate plan, before the unexpected strikes. "If these simple documents are not in place, it may be required to petition the court to appoint a decision-maker or guardian," explains FPA member and CERTIFIED FINANCIAL PLANNER™ (CFP®) professional Gregory Kurinec of Bentrion Financial Group in Downers Grove, Ill. "This process can be costly and is undignified. By taking the time to plan before something happens, this will save you and your family a lot of unneeded stress, angst and cost."

And as FPA member Peter Creedon, CFP® with Crystal Brook Advisors in New York City, notes, powers of attorney and estate plans aren't just for the wealthy — people with a high-value "estate." "Everyone should have these [POA documents] in place. They don't have to be fancy. They need to be thorough and legally sound."

As useful as powers of attorney can be to provide clarity around your wishes and intentions, which types are warranted in your situation, and why? Here's a brief overview of the various types of POA and their application:

Specific (or limited) power of attorney: Here a person authorizes a party to act on their behalf on a limited basis, to perform a specific function (or functions), such as representing them in the closing of a real estate deal. The power of attorney also can be limited to a specific date or period of time.

General power of attorney: In this case, a person authorizes a person or organization to broadly act on their behalf to manage financial and business transactions and accounts, pay bills, handle taxes, operate business interests and generally oversee personal and financial matters.



This Month's Webinar

Painless Estate Planning

Less than half of Americans have a will, but everyone needs one. Join us to learn the simple steps you need to take to create a basic estate plan. We will cover the few basic documents that can save you and your family loads of aggravation and unnecessary expense.

[Log-in](#) any time this month to watch the webinar and ask the expert questions!

Healthcare power of attorney (or healthcare proxy): This is where a person authorizes another party to make medical decisions on that person's behalf if that person is unable to make those decisions on his or her own. Along with a healthcare POA, it's also wise to put in place a **living will** (also known as an advance healthcare directive). This is a document that specifies your wishes for treatment and end-of-life care, should you become incapable of communicating those wishes yourself.

When should a power of attorney document be put in place? That depends on the person. Generally, anyone age 18 or over can designate a power of attorney. In many cases, however, people wait until later in life to put these documents in place. The key is not to wait too long.

Who should be designated as an agent/attorney-in-fact? This is a decision not to take lightly. Whom do you trust to fulfill the responsibilities that come with the designation? Does that person have the skills, temperament and know-how to carry out those responsibilities? Is that person willing and able to meet those responsibilities on your behalf?

Where/how to get the power of attorney documents? While there are sites online that offer power of attorney forms and templates for the state in which you reside, if you decide to go the do-it-yourself route, you need to be sure the document(s) you are filing satisfy all the requirements of your home state. To be sure POA documents are legally sound, comply with state requirements and are filed with the appropriate agencies and entities, Creedon suggests enlisting an estate attorney. "Having a licensed attorney do it for you shouldn't cost that much, and the peace of mind you get, knowing it was done right, is worth it."

This column is provided by the Financial Planning Association® (FPA®), the leadership and advocacy organization connecting those who provide, support and benefit from professional financial planning. FPA is the community that fosters the value of financial planning and advances the financial planning profession and its members demonstrate and support a professional commitment to education and a client-centered financial planning process.