

The Financial Power of Attorney – An Important Next Step

All adults should consider signing a financial power of attorney. Let's use the nickname "P.O.A." and go over some common and important questions.

- **What does it do?** With a POA, you choose someone to act for you regarding finances. The person you choose is your "agent." Sometimes they are called the attorney-in-fact.
- **Who can be my agent?** You may name your spouse, an adult child, a relative or a trusted friend to be your agent. Choose someone you trust completely.
- **What powers does my agent have?** You can decide how much or how little authority to give to your agent. Most often, a POA covers a broad range of financial issues, from real estate to banking, and from taxes to lawsuits.
- **When is the POA effective?** Most attorneys recommend that the powers be in effect when the POA is signed. However, it is possible to limit the power to when you are medically unable to handle your affairs. You can also limit the POA to a certain time period, such as when you are out of the country for work or vacation.
- **What if I change my mind later?** You can revoke the POA, as long as you are competent. It is also terminated automatically when you die.
- **Does my agent have to keep records?** Yes, this obligation is usually listed in the POA. Most attorneys recommend that you excuse the agent from having to file records with the court. That saves you money. But you can list someone who your agent has to turn records over to, such as your other children or relatives. This protects you by having a second set of "eyes" watching over the agent.
- **Does my agent take over control from me?** No, you maintain the same power. Usually, your agent is on stand-by to help when you ask for them to step in.
- **Why bother?** If you are able to handle all your finances, that's great. But we can't always predict when we will get sick. Having a POA ready is a good plan.
- **What if I don't sign a POA?** If you get too sick to handle your finances, someone will have to go to court to have you declared incompetent. They can ask to be appointed your guardian, but the court might instead appoint a private attorney to handle your assets.

- **What does it involve to have a guardian?** Your assets and income would be managed with court supervision. They become public record. Your guardian must file annual accountings and get these approved by the court. The guardian also must pay for an insurance bond, to cover the value of your assets being managed.
- **Who handles the guardianship paperwork?** Generally, your family will need an attorney to handle this. This expense can be avoided by having a POA signed while you are able to choose an agent.
- **When does the guardianship end?** It ends when you regain your mental abilities or you die.
- **What does it mean for a POA to be “durable”?** That means it will continue to be effective after you become incapable of handling your affairs. Of course, that’s when you would most need it!
- **Do I need a POA when my relative is already on my checkbook?** Yes, because there are other financial matters that may need to be handled. For example, your family might need to help you by selling your car or home, signing a lease, completing tax papers, and handling insurance issues.
- **What will happen to my POA after I sign it?** These are usually registered in the county Register of Deeds where you live or own real estate. This can be done after you become incapacitated, if your family has access to the original.

How do I find a lawyer? A lawyer who handles elder law or estate planning may be your best choice. Also, some law schools have free legal clinics.

- N.C. State Bar Board of Legal Specialization (board certified specialists)
 - 919-828-4620 www.nclawspecialists.gov
- N.C. Bar Association 1-800-662-7407
<https://www.ncbar.org/membership/membership-directory>

Plan ahead and put your mind at ease with a power of attorney!

**You should consult an attorney for specific legal advice.
 This brochure is only general information.**

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www.elder-clinic.law.wfu.edu