

POWER OF ATTORNEY

A power of attorney delegates your power to take or do certain legal action to another person. As long as the person holding the power of attorney acts within the limits of authority stated in the document, then you are bound by those acts. However, it is important to note that a business or institution is NOT obligated to permit your agent to act on your behalf simply because they have a duly executed power of attorney. Therefore, the best policy is to contact those businesses and institutions with whom you want your agent to interact in order to find out their internal policies on powers of attorney.

People who are not present to transact business requiring their signature most frequently use a power of attorney. A power of attorney can be as broad or as narrow as one's particular needs require. There are two basic types of powers of attorney:

General Power of Attorney: A general power of attorney gives a designated person all of your power to contract. A general power of attorney is a broad grant of authority, almost unlimited. The Marine Corps no longer provides general powers of attorney.

Special Power of Attorney: A special power of attorney authorizes another person to do only the specific acts mentioned in the document, such as the sale of an automobile identified by its license number, vehicle ID number, make, and model. Realtors require that a special power of attorney be used to complete a real estate transaction. In addition, most financial institutions will only allow an agent to access financial accounts with a special power of attorney.

USES

Powers of attorney are subject to abuse. Only give it to someone who you absolutely trust and confide in. Remember, the holder of your power of attorney will be acting in your name.

In many instances, the third parties to your transactions will lack confidence in a general power of attorney simply because it does not specify the particular transactions for which it is granted. They may believe that you will not honor the actions of the holder without the threat of court action. This is another reason for using a special power of attorney whenever practicable. It is also helpful to show the power of attorney to those businesses and individuals with whom your holder will be dealing. Sometimes a business may require you to use a power of attorney format that they have approved beforehand. Third parties may deny use of the Power of Attorney as a matter of policy.

A power of attorney ceases to be operative upon the death of either the person who grants the power or of the holder of the power. The power may also be revoked by its own terms through a stated time limitation mentioned in the Power of Attorney, or it may be terminated or revoked at any time by giving notice to the holder of the power. Give notice of revocation to both the holder and to all persons dealing with the holder. If you recorded the power of attorney you must also record the revocation.

There are limitations on a power of attorney. You can not sign another person's will or vote for another person using a power of attorney.

WHO DOES NOT NEED A POWER OF ATTORNEY?

Natural parents do not need powers of attorney to check their children in the hospital. An In Loco Parentis power of attorney (authorization for medical treatment) is not necessary as long as the parent has a military ID.

If the names of both husband and wife appear on a vehicle's registration, neither spouse needs a power of attorney to drive that vehicle.

If checks are drawn on a joint checking account, even if there is direct deposit to the account, neither check-cashing nor check writing requires a power of attorney.

LEGAL ASSISTANCE POLICY

Legal Assistance recommends that powers of attorney be as limited as possible in both their scope and duration. Toward that end, powers of attorney are not drafted for a period exceeding three years. Statute text:

(a) The death of a principal who has executed a written power of attorney, durable or otherwise, does not revoke or terminate the agency as to the attorney in fact or other person, who, without actual knowledge of the death of the principal, acts in good faith under the power. Any action so taken, unless otherwise invalid or unenforceable, binds successors in interest of the principal.

(b) The disability or incapacity of a principal who has previously executed a written power of attorney that is not a durable power does not revoke or terminate the agency as to the attorney in fact or other person, who, without actual knowledge of the disability or incapacity of the principal, acts in good faith under the power. Any action so taken, unless otherwise invalid or unenforceable, binds the principal and the principal's successors in interest.