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Articles about estate planning tend to focus on wills and trusts. They are important documents that let you appoint someone to handle your affairs and distribute your estate after death. If you want to have someone available to handle personal and financial affairs while you are alive, you need a power of attorney.

Four types of powers of attorney exist in California. Some let you appoint another person to handle banking, real estate and other tasks on your behalf. One of them even lets you designate someone to make health care decisions should you be unable to make them on your own. This article takes a look at each of the powers of attorney, explains their uses, and offers guidance about rights given and not given to the person you appoint.

## What is a power of attorney?

A power of attorney, which you may see or hear referenced as a "POA," is a legal document. It allows you as the principal to appoint another person to act as your agent or attorney-in-fact.

The agent has authority to act on your behalf to perform tasks related to your financial and personal affairs. Only one of the four types of powers of attorney authorize an agent to make healthcare decisions on your behalf.

You decide how much or how little authority you grant to your agent along with the types of tasks your agent may perform. Some of the different tasks a power of attorney allows you to give to your agent include:

- Handling transactions at financial institutions.
- Paying your bills.
- Negotiating and signing contracts.
- Hiring and firing people that work for you.
- Buying and selling stocks, bonds and other securities.

More than one agent may be appointed. For example, a person with more than one adult child may appoint two or more of them to act together, or one person can be appointed as an agent with another person appointed as an alternate. The alternate steps in when the primary agent is unavailable, unable or unwilling to handle the assigned responsibilities.

**Important**

This article is for information purposes only and we hope you find it useful. Please do not call us for assistance as we are unable to assist you with any legal matters nor are we able to answer questions relating to the topics covered in this article.

## What are the different types of powers of attorney in California?

The three most common types of powers of attorney that delegate authority to an agent to handle your financial affairs are the following:

- General power of attorney.
- Limited power of attorney.
- Durable power of attorney.

California also recognizes authority granted to an agent through a medical power of attorney for health care. However, do not confuse the three types of powers of attorney delegating authority to handle matters related to finances and business with the medical power of attorney. The differences will be discussed later in this article.

### General power of attorney

A general power of attorney grants broad powers to an agent. Essentially, the agent has the same authority as you have to make decisions, handle your financial affairs and manage your assets. One notable exception to this is that agents cannot gift money or property belonging to the principal to themselves.

Whether you use a general power of attorney depends upon how much you intend to rely upon your agent. For example, if your plan is for your agent to take over most of the tasks that you currently perform, then a general power of attorney may offer an appropriate option for you. It may also be the power of attorney to use if you want to have someone to take over and handle everything should you be unable to do so because of physical impairments that limit your ability to do so.

Keep in mind that authority granted by a general power of attorney ceases to exist in the event the principal becomes incapacitated. In order for the authority to continue, there must be specific language in the power of attorney making clearly designating it as a durable power of attorney. More about the language for a durable power of attorney a little later in this article.

### Limited power of attorney

If the thought of granting your agent authority to handle a broad range of tasks makes you feel uneasy, the solution may be a limited power of attorney. A limited power of attorney lets you specify the areas of your life to which the agent has access.

For example, instead of granting your agent authority to handle real estate transactions on your behalf, you can limit it to a specific property. You could also grant the agent access to your bank account with a limitation that access is only to deposit funds and not write checks or make withdrawals.

Just as with a general power of attorney, a limited power of attorney may be made durable to survive in the event you become incapacitated. The rules for durable powers of attorney are in the next section.

### Durable power of attorney

Unless the principal chooses to make a power of attorney durable, the authority granted to an agent ends in the event of incompetency or incapacitation of the principal. It protects against unauthorized use of a power of attorney by an agent taking advantage of an incapacitated principal.

One of the main reasons some people have a power of attorney is to have someone to handle their affairs in case a stroke or other medical event prevents them from doing so. Powers of attorney in California become durable by adding the following language to them: "This power of attorney shall not be affected by subsequent incapacity of the principal." A POA is non-durable absent the language.

### Medical power of attorney

A medical power of attorney lets an agent make health-care decisions on behalf of a principal. California makes its durable power of attorney for health care part of an advance health care directive. This combined document lets an agent make medical treatment, health care and end-of-life decisions.

The health care directive includes a section similar to a living will. The principal may include his or her preferences to guide the agent and doctors.

## Who needs a power of attorney?

If you have bank accounts and own a home and other assets, you probably need a power of attorney. It gives you the ability to designate a person you trust to handle financial matters when you are traveling or in the event you become too ill to handle them on your own.

Imagine being in a coma after suffering a head injury in a car crash. Who will manage your financial affairs? A conservator can be appointed, but it requires going to court and takes time. It is easier to have an agent in place through a power of attorney to handle things.

Do not assume that being married means you do not need a power of attorney. If you are incapacitated and no longer competent because of a stroke or an accident, your spouse cannot sign contracts and other legal documents on your behalf without a power of attorney.

Keep in mind that a power of attorney is a legal document, it must be signed when you are legally competent to do so. In other words, waiting until you need someone to handle your affairs may be too late to sign a power of attorney form.

## What rights do and do not go along with giving someone a POA?

Giving authority to an agent through a power of attorney does not prevent you from making decisions and handling your affairs. A POA is for your convenience. It does not take away any of your rights.

A POA does not make an agent your partner. An agent is a fiduciary who must put your interests ahead of their own.

You have the right to override decisions made by your agent. Keep in mind that you have the right to revoke any or all authority delegated to your agent. The safest way to do this is in writing.

## Get advice from an attorney

It is important to get legal advice and guidance before signing a power of attorney document from an estate planning law firm. An attorney can help you to decide which of the different types of powers of attorney is best suited to your particular needs and circumstances.