



Power of Attorney

Public Information Pamphlet #27

Why would I want to give someone else the power to act for me?

Is there more than one type of power of attorney?

Must I grant the person to whom I give my Power of Attorney the power to handle all of my affairs?

Can I use a Power of Attorney to authorize someone else to care for my child?

What happens if I become unable to make decisions and have not signed a power of attorney?

REMEMBER. The law often changes. Each case is different. This pamphlet is meant to give you general information and not to give you specific legal advice.

Please use the information found in this brochure carefully since the law is constantly changing and the information may not accurately reflect any changes in the law that occurred following the creation and publication of the brochure.

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■ **POWER OF ATTORNEY** is a written document by which you can authorize another person or persons to act for you, as your agent or attorney-in-fact. For example, your agent could conduct financial transactions such as buying and selling, paying bills, and maintaining bank accounts. A Power of Attorney is a legal document, governed by the laws of Pennsylvania. 20 Pa.C.S. Chapter 56

Why would I want to give someone else the power to act for me?

You may become ill or disabled to the extent that you are mentally or physically unable to conduct your business yourself.

Is there more than one type of Power of Attorney?

Yes. For example, a Power of Attorney may be durable or nondurable. A durable Power of Attorney will continue in effect after you become incapacitated. A nondurable Power of Attorney will end if you become incapacitated. However, in Pennsylvania all Powers of Attorney signed on or after December 16, 1992 are durable unless the document specifically states otherwise.

Must I grant the person to whom I give my Power of Attorney the power to handle all of my affairs?

No. A Power of Attorney may be limited to certain acts, or even to one act only (for example, selling your home for you).

Can I use a Power of Attorney to authorize someone else to care for my child?

No. However, you can authorize someone to take care of your child's medical treatment and any other needs through the use of a standby guardianship. Under the Standby Guardianship Act, 23 Pa.C.S. Chapter 56, a custodial parent, a legal custodian, or a legal guardian can designate a standby guardian through the use of a standby guardianship document. The designated standby guardian would have authority to act for the named minor or minors only upon the occurrence of a triggering event, such as physical debilitation, mental incapacity, or death.

Also, under the Medical Consent Act, 11 P.S. Chapter 21, a parent who is temporarily unable to care for the needs of a minor child or children, may designate an adult to consent to medical and/or mental health treatment for a minor child or children.

This act permits the designated adult, on behalf of the designated minor or minors, to consent to medical, surgical, dental, developmental, mental health or other treatment. Such a designation must be in writing and must be signed by the parent in the presence of two witnesses who are at least eighteen (18) years old. The adult who is being given the power to consent to the treatment specified also must sign the document.

Legal custodians and legal guardians of minor children may also designate another adult to consent to treatment on behalf of the minor or minors for whom they are responsible.

How will the banks, doctors, and so forth know who holds my Power of Attorney?

It is a good idea to give copies to your doctor and your bank. You can also give extra copies to your representative. If your representative opens a "Power of Attorney account" at a bank for you, the bank will probably require a copy of the document.

Who should I choose?

You need not choose a relative. Be **sure** to choose someone you trust.

Can I wait until I become incapacitated to do this?

If you become mentally incapacitated, it will be too late to grant a Power of Attorney. You must be mentally competent to take this action.

Is it possible to name someone to have Power of Attorney, but to withhold the power to act until a later date?

Yes, through what is known as a Springing Power of Attorney. It "springs" into effect at a specified future time or when some specified thing happens. For example, it can spring into effect if you become disabled.

Suppose I change my mind about the person I choose to act as my agent?

You may revoke a Power of Attorney at any time, provided you have the capacity to do so. Just give written notice to the person you had selected. You should also notify your doctor, your bank, or anyone else who got a copy of the original Power of Attorney.

How can I get a Power of Attorney prepared for me?

To get a Power of Attorney prepared for you, contact your attorney. If you do not have an attorney, your local Office on Aging or Legal Services office may be able to help you.

What happens if I become disabled or incapacitated and I have not signed a Power of Attorney?

If you have not named someone else to make health care decisions for you in a Health Care Power of Attorney document, a health care representative can be named to make healthcare decisions for you. However, that only applies to health care decisions. A health care representative CANNOT make financial decisions or decisions that affect your personal or real property.