

Power of Attorney

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Occasions arise in business and estate planning where you may want to grant authorization to another person to act on your behalf. The actions of an agent appointed by power of attorney are legally binding on you, the principal, just as if you had carried out the action yourself. So it is extremely important to give proper consideration to who you grant power of attorney. The agent granted power of attorney may be any adult; frequently they are a close relative, lawyer, or other trusted individual.

A point many people fail to understand is, if the principal becomes incapacitated an ordinary power of attorney is revoked and the agent's power to act on behalf of the principal ceases.

A durable power of attorney is a tool that will allow someone whom you have chosen to make medical decisions for you when you are unable. However, the death of the principal revokes even a durable power of attorney.

To create a durable power of attorney in Missouri, the title of the document must include the word "durable" and the document must state "this is a durable power of attorney and the authority of my attorney-in-fact shall not terminate if I become disabled or incapacitated". Numerous sources of durable power of attorney and health care medical directives are available on-line. You are encouraged to visit with your attorney if you have questions.

Additionally you might want to consider a "springing" power of attorney. A springing power of attorney is one that only becomes effective if certain conditions are met. Most people desire to be responsible for making health-care decisions as long as they can, so a typical springing power of attorney would be conditioned on the principal becoming disabled or incapacitated.

Durable power of attorney is a compliment to a living will or advance-directives for medical care, not a substitute. In fact, many sample health-care advance directive documents suggest a comprehensive format and include a section for naming health-care agents and specifies the powers granted to the agents.

Power of attorney can be a very effective estate planning tool. States vary with regard to health-care directives, thus if you do extensive traveling, check with your lawyer to insure your documents will provide you the protection you desire. Additionally, it is recommended you carry a "notification card" in your billfold to inform emergency medical personnel that you have an advance directive and/or durable power of attorney – with the phone numbers for contacting the individual(s) you have given durable power of attorney.

In conclusion, remember that regardless of how useful this document might be, great care must be given the selection of your agent – you could be putting your life in their hands.