

DURABLE POWERS OF ATTORNEY

A Power of Attorney is a written document by which a person, the Principal, delegates another, referred to as the Agent or as the “Attorney-in-Fact” to administer the Principal’s affairs.

Durable Powers of Attorney are often recommended by attorneys in order to avoid the need for a guardianship should the client become incapacitated. A person who becomes incapacitated and has not established a Power of Attorney is at risk of becoming subject to a costly and intrusive guardianship proceeding.

Medical Powers of Attorney can include a grant of authority over personal issues, including the ability to make substitute health care decisions. This is a valuable tool for ensuring that the preferences the Principal has stated in the Living Will/Health Care Directive are followed.

Financial Powers of Attorney delegate administration of the Principal’s finances.

The Powers delegated to the Attorney-in-Fact are completely within the control of the Principal. People often create “Springing” Powers of Attorney, which take effect only after the Principal becomes incapacitated. Alternatively, the Durable Power of Attorney may take effect immediately.

A Power of Attorney is voluntary and can be canceled at any time by the Principal. If and when an individual desires to revoke their Power of Attorney, it is important the revocation be recorded to protect both individuals involved.

An individual must be competent (‘of sound mind,’ i.e. not incapacitated) in order to sign a Power of Attorney.