

People talk about having power of attorney and may even recommend power of attorney documents without actually understanding what a power of attorney is. These legal tools are very useful, but they can also be misused. It is important to understand what they are and how they work.

If prepared properly, a power of attorney can protect your interests at a time when you are vulnerable. If prepared unwisely, they will be useless or even worse, put you at greater risk of loss.

Power to Act

A power of attorney gives one person the power to act for another. The person who grants the power—often called the “principal”—still retains the ability to act on their own. Through a power of attorney, they just enable an additional person to act in their place. They share power with that person. (This is in contrast to a situation where someone becomes a guardian to make decisions for another person. The guardian takes over and holds all the power).

The person receiving power of attorney is usually called the “agent.” They don’t actually have to be an attorney or have any legal knowledge. However, they should be capable of understanding the power they hold and how to use it properly.

Financial and Medical

In Texas, when people refer generally to a power of attorney or durable power of attorney, they are speaking about the authority to make decisions and take actions regarding financial and business issues. This might include:

- Transferring money from bank accounts
- Buying and selling property
- Signing contracts
- Hiring or firing employees
- Filing lawsuits

It used to be assumed that a power of attorney ceased to be effective when the principal became incapacitated. This was at the very time when a power of attorney would be most useful. When a power of attorney document is durable, it remains effective even if the principal becomes incapacitated. Texas law now makes powers of attorney durable unless the document specifically says otherwise.

A medical power of attorney authorizes an agent to make different types of decisions – those pertaining to health care and medical treatment. The authority only takes effect if the principal is unable to make or communicate decisions on their own.

Powers Can Be Limited or Broad

Power of attorney can and should be customized to fit the needs of the situation. A power of attorney can be created to give someone authority to handle one specific transaction or only to take certain limited actions. For instance, a principal might give someone power of attorney to make payments from a single account but not give the agent access to all accounts.

The power can be limited by time, set to expire on a certain date or when a certain event occurs. The power might also be kept dormant and not “spring” into effect until a certain time. A principal might execute a “springing” power of attorney that gives their agent power to handle financial affairs only if the principal becomes

incapacitated.

Protect Your Finances and Health with the Right Power of Attorney Documents

If you suddenly fell into a coma due to an accident or illness, a durable power of attorney would allow an agent to pay your bills and manage your business. A medical power of attorney would enable your agent to authorize treatment. These documents protect you and should be a part of your estate plan.

To find out more about how the Nordhaus Firm could protect your future with power of attorney documents created for your unique needs, contact us today.