

What Happens if I Don't Have a Power of Attorney?

While you might think of your estate plan as a way to protect your loved ones after you pass away, it is important to realize that certain aspects of your estate plan can provide vital protection for you during your lifetime. For that reason, estate planning is critical for all adults at every stage of life and in every financial situation.

A power of attorney is a document that can safeguard your health and finances in emergency situations. To understand why it is so important, it is helpful to understand what happens in Texas when you don't have one prepared.

How a Power of Attorney Works

A power of attorney document gives someone the authority to act in your name. When you give someone this authority, you don't lose any of your own authority, you just share it. Your lawyer can set limits on the authority you give out, and you can cancel the power of attorney at any time as long as you remain legally competent. The person you authorize to act on your behalf is often referred to as your agent or attorney-in-fact.

There are two main types of powers of attorney used in Texas:

A financial power of attorney gives your agent authority to manage financial and legal matters. This power can take effect immediately or be held in reserve and only take effect if a specific event happens, such as if a doctor declares you to be legally incompetent.

A healthcare power of attorney allows your agent to make healthcare decisions and authorize medical treatment if you are incapacitated and unable to make or communicate your own decisions.

Traditionally, a power of attorney document became invalid if the person who granted the power became incapacitated. This was the time when it was often most needed. So now most powers of attorney are set up to be “durable” so that they remain in force in case of incapacitation.

What Happens When You Don't Have a Financial Power of Attorney

If you were in an accident and unconscious for an extended period, your loved ones might be powerless to help with many of your financial matters. Your bills would go unpaid, and your credit could quickly be ruined. You might awake from a coma to discover that you've lost your home and car, and it could take you years to rebuild.

If you suffered from a condition that took away your ability to reason, such as Alzheimer's Disease, your family might need to seek guardianship, which is a drastic measure. Guardianship strips away your ability to make decisions for yourself, so courts are reluctant to grant it. Guardianship proceedings can be lengthy, expensive, and invasive.

When you have a financial power of attorney prepared, your designated agent can step in and manage your finances, protecting your money matters and preventing the need for guardianship.

What Happens When You Don't Have a

Healthcare Power of Attorney

In an emergency situation, if you don't have a healthcare power of attorney, doctors may be hesitant to perform certain treatments because they may need authorization or may not know what course of treatment you would prefer. A healthcare power of attorney enables an agent to authorize treatment and make medical decisions on your behalf, which can avoid critical delays.

A Power of Attorney Keeps You in Control

By authorizing someone to act for you in case of emergencies, you can retain control and protect your interests in drastic situations. You have the ability to choose your agent and instruct them regarding your preferences. You can limit their authority. For instance, you might give your financial agent access to only certain accounts or limit what they can do with the accounts.

Creating a financial power of attorney is a much safer method than adding someone's name to your bank accounts. When you do that, you give them ownership of your account, and they—or their creditors—can take all your funds. With a power of attorney, you give someone access to but not ownership of your assets. You still need to choose your agent with care because their decisions will bind you, but if your agent should run into financial trouble, their creditors will not be able to access your assets.

The Nordhaus Firm Can Prepare Power of

Attorney Documents Tailored to Your Specifications

At The Nordhaus Firm, we can create the right powers of attorney to suit your needs and goals. We can put severe restrictions on decision-making authority or enable your agent to assist you with a wide range of affairs, such as helping you pay monthly bills. We believe that every adult should be prepared for emergency situations, and we want to help you be protected regardless of what the future may bring.

To get started on your plan of protection, call 214-726-1450 or reach out online to schedule a consultation at your convenience