

An Important Part of Lifetime Planning is the Power of Attorney

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An important part of lifetime planning is the Power of Attorney. Valid in all states, these documents give one or more persons the power to act on your behalf. The power may be limited to a particular activity (e.g., closing the sale of your home) or general in its application, empowering one or more persons to act on your behalf in a variety of situations. It may take effect immediately or only upon the occurrence of a future event (e.g., a determination that you are unable to act for yourself). The latter are "springing" Powers of Attorney. It may give temporary or continuous, permanent authority to act on your behalf. A power of attorney may be revoked, but most states require written notice of revocation to the person named to act for you.

The person named in a Power of Attorney to act on your behalf is commonly referred to as your "agent" or "attorney-in-fact." With a valid Power of Attorney, your agent can take any action permitted in the document. Often your agent must present the actual document to invoke the power. For example, if another person is acting on your behalf to sell an automobile, the motor vehicles department generally will require that the Power of Attorney be presented before your agent's authority to sign the title will be honored. Similarly, an agent who signs documents to buy or sell real property on your behalf must present the Power of Attorney to the title company. The same applies to sale of securities or opening and closing bank accounts. However, your agent generally should not need to present the Power of Attorney when signing checks for you.

Why would anyone give such sweeping authority to another person? One answer is convenience. If you are buying or selling assets and do not wish to appear in person to close the transaction, you may take advantage of a Power of Attorney. Another important reason to use Powers of Attorney is to prepare for situations when you may not be able to act on your own behalf due to absence or incapacity. Such a disability may be temporary (e.g., due to travel, accident, or illness) or it may be permanent.

If you do not have a Power of Attorney and become unable to manage your personal or business affairs, it may become necessary for a court to appoint one or more people to act for you. People appointed in this manner are referred to as guardians, conservators, or committees, depending upon your local state law. If a court proceeding, sometimes known as intervention, is needed, then you may not have the ability to choose the person who will act for you. With A Power of Attorney, you choose who will act and define their authority and its limits, if any.

What if I move? Generally, a Power of Attorney that is valid when you sign it will remain valid even if you change your state of residence. Although it should not be necessary to sign a new Power of Attorney merely because you have moved to a new state, it is a good idea to take the opportunity to update your Power of Attorney.

Will my Power of Attorney expire? Some states used to require renewal of Powers of Attorney for continuing validity. Today, most states permit a "durable" Power of Attorney that remains valid once signed until you die or revoke the document. However, you should periodically meet with your lawyer to revisit a Power of Attorney and consider whether your choice of agent still meets your needs and learn whether developments in state law affect your Power of Attorney.

Note that Legalhelpmate.com (<http://www.legalhelpmate.com/power-of-attorney.aspx>) provides an easy-to-use, quick, and economical online method for creating completed legal documents for any occasions.

About The Author
Jeffrey Broobin is a free-lance writer on family and finance issues; his main goal is to help people during their complicated period of life.

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