



Planning for “*What If...?*”

Tools for Protecting Your Family and Managing Your Assets

Power of Attorney

What Is It? A legal document designating an individual whom you authorize with the power to act in your place. This fact sheet focuses on powers of attorney for property. There are also medical powers of attorney. The power can be limited to cover only certain types of acts (e.g., to pay bills from your checking account) or to cover all financial matters. A power of attorney ceases when the person giving the authority (the principal) dies. The principal can also revoke the power.

Who Should Have It and Why?

Unless truly all of your accounts are held as joint tenants with right of survivorship or in a trust, your incapacity or temporary absence would make it difficult for anyone to manage your financial affairs. Creating a power of attorney is simpler than having your relatives go to court to have a guardianship established and having to prove that you are incapable of managing your affairs.

Terms to Know

Principal: the person who authorizes another person (agent) to act for him or her.

Agent/attorney in fact: the person who acts for another person (principal) by the latter's authority.

Durable: a power that remains in effect even if the principal becomes incapacitated.

Springing: a power of attorney that only becomes effective when the principal is incapacitated. Springing powers of attorney are prohibited in Illinois. Therefore, all powers of attorney in Illinois become effective as soon as they are executed.

Issues and Limitations

- Choosing a trustworthy person to be your agent is the first challenge. An agent who is not trustworthy can abuse the power of attorney by withdrawing funds from your accounts, selling property, or giving assets away for his/her own benefit.

- Some institutions may require that you use their forms for power of attorney. Others won't honor a document that is more than a certain number of years old. Ask each of your financial institutions for their guidelines. You may be able to submit your power of attorney for review and approval by the institution's legal department, so that you can be assured it will be honored when needed.
- The power must specifically say that the authority continues if the principal becomes incapacitated. Otherwise, the power may be useless when it is most needed.

Ask Yourself

Do I have a power of attorney for property?

Is my choice of agent/attorney in fact current?

Have I checked with my financial institutions to verify that they will accept my power of attorney?



<http://www.ace.uiuc.edu/cfe/whatif/index.html>

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