

Creating a Care Plan: POWER OF ATTORNEY

The process of establishing a legal, medical, or financial power of attorney is subject to state-specific laws. Be sure to check the requirements for your state(s) of residence. These worksheets are not intended to serve as legal, financial, or medical advice but are intended to serve as a starting point of information and reflection.



GET INFORMATION

A power of attorney, also known as a POA, is a legal document that authorizes someone over the age of 18 years to act on another's behalf. To establish a POA, you must have the capacity to make decisions for yourself. The process of establishing a power of attorney is subject to state-specific laws. In Arizona, the person whom the POA represents is often referred to as the principal, and the person designated to act on the principal's behalf is known as the agent or the attorney in fact.

There are several different types of POAs each authorizing power to act under certain circumstances.

Powers of Attorney (POA) Categories

Durable POA gives limited or broad authority over your health, legal, and financial affairs to your agent. A Durable POA can be written to begin immediately or to start only when the principal becomes incapacitated.

In Arizona, an incapacitated person is "any person who is impaired by reason of mental illness, mental deficiency, mental disorder, physical illness or disability, chronic use of drugs, chronic intoxication or other cause, except minority, to the extent that he lacks sufficient understanding or capacity to make or communicate responsible decisions concerning his person. . . ."¹

In some states, the term Springing POA or Springing Durable POA is used to specify that the agent's decision-making power will only come into effect if the principal is incapacitated.

Specific POA gives your agent limited authority to handle certain tasks. This can include paying bills and real estate transactions. The Specific POA is temporary and time bound.

Powers of Attorney (POA) Types

General POA gives more broad authority to your agent. Your agent would handle all your legal and financial affairs until the principal becomes incapacitated, at which point the General POA dissolves. A *General POA* does not cover medical or healthcare decisions.

Health Care POA gives the agent authority to make health care decisions on the principal's behalf when they become incapacitated. A Health Care POA could also be called Durable POA for Health Care or Medical POA.

TIP: A Living Will outlines your medical wishes and directives, which can be used to assist a medical representative or Health Care POA in decision-making. Learn more in the Creating a Care Plan: Health Care Advance Directives worksheet.

1 Arizona State Legislature. (n.d.). Definitions. 14-5101 - Definitions. Retrieved February 3, 2023, from <https://www.azleg.gov/ars/14/05101.htm>

Mental Health POA gives the agent authority to make mental health care decisions (such as medications, hospitalization, etc.) on the principal's behalf **when** they become incapacitated. A Mental Health POA only covers care related to a mental health diagnosis. A Mental Health Care POA could also be called Psychiatric Advance Directive (PAD) or Mental Health Proxy.



IMPORTANT: In most cases, an agent with a Health Care POA does not have the authority to make mental health decisions for the principal. Likewise, an agent with a Mental Health POA does not have the authority to make medical care decisions.

Financial POA gives the agent authority to make financial decisions. These decisions may include paying bills, managing property, overseeing bank accounts, and directing investments.

FAQs

What happens if you do not have a Health Care POA and there is a medical emergency?

A medical provider will typically seek out your medical advance directive or determine a medical surrogate. The order of a medical surrogate is predetermined by the state.

What happens if one does not have a POA and becomes incapacitated?

Depending on the function or representation needed a guardianship, conservatorship or fiduciary may be established. Check your local state regulation for more information on these terms.

What if someone wants to establish a POA, but do not know someone willing to serve in that role for them?

If you or loved one does not have someone who is willing to serve as a POA there may be community resources who can assist in this role.



DEFINE PRIORITIES

Selecting A Health Care POA

Health Care POA gives the agent authority to make health care decisions on the principal's behalf when they become incapacitated. A Health Care POA could also be called Durable POA for Health Care or Medical POA.

Consider: Think of someone you trust. Now, consider the following:

Who knows enough or would be willing to learn about your medical situation and future wishes?

Who could act on your behalf despite personal, ethical, or spiritual differences on medical care?

Who could be readily available and accessible to make emergency decisions?

Who could act assertively on your medical wishes in medical settings?

Who could fulfill your medical wishes despite potential disagreements within your caregiving community (family, friends, others)?

After this reflection, I will talk to the following people about the possibility of becoming my Health Care POA?



DISCUSS DETAILS

Start the Conversation

When asking someone to be your Health Care POA, consider discussing:

- Details of your Advance Health Care Directive
- Details of your End-of-Life Plan
- Details of your Living Will
- What the person might find challenging?
- How could this impact the person emotionally?
- Are they willing and able to fulfill your wishes?

What are other important questions or considerations you want to discuss?



COMPLETE & SHARE DOCUMENTS

My Health Care POA is _____

My Alternate Health Care POA is _____



IMPORTANT: This worksheet does not legally establish your Health Care POA. Be sure to complete the official documents in accordance with your state process and share with your caregiving community.

TIP: For more information see Creating a Care Plan: After the Conversation worksheet.

Selecting a Mental Health POA

Mental Health POA gives the agent authority to make mental health care decisions (such as medications, hospitalization, etc.) on the principal's behalf when they become incapacitated. A Mental Health POA only covers care related to a mental health diagnosis. A Mental Health Care POA could also be called Psychiatric Advance Directive (PAD) or Mental Health Proxy.

Consider: Think of someone you trust. Now, consider the following:

Who knows enough or would be willing to learn about my mental health care plan?

Who could act on my behalf despite personal, ethical or spiritual differences on mental health care?

Who could assertively follow through on my mental health care plan?

Who could act assertively on my mental health wishes in medical settings?

Who could fulfill my mental health wishes despite potential disagreements within my caregiving community (family, friends, other)?

After this reflection, I will talk to the following people about becoming my Mental Health POA?

Start the Conversation

When asking someone to be your Mental Health POA, consider discussing:

- Details of your Diagnosis
- Details of your Mental Health Care Plan
- What the person might find challenging?
- How serving as your Mental Health POA may impact your relationship?
- Are they willing and able to fulfill your wishes?

What are other important questions or considerations you want to discuss:



COMPLETE & SHARE DOCUMENTS

My Mental Health Care POA is _____

My Alternate Mental Health Care POA is _____



IMPORTANT: This worksheet does not legally establish your Health Care POA. Be sure to complete the official documents in accordance with your state process and share with your caregiving community.

TIP: For more information see Creating a Care Plan: After the Conversation worksheet.

Selecting a Financial POA

Financial POA gives the agent authority to make financial decisions. These decisions may include paying bills, managing property, overseeing bank accounts, and directing investments.



IMPORTANT: Given a Financial POA can make financial decisions with little or no oversight, there is a greater risk of financial abuse.

Consider: Think of someone you trust. Now, consider the following:

Who could fulfill day-to-day financial obligations (e.g., paying bills, utilizing credit cards, etc.) reliably?

Who would be willing to seek financial advice and make sound decisions regarding my long-term financial future?

Who knows enough or would be willing to learn about my financial wishes and priorities?

Who do you see being financially responsible?

Who could fulfill my financial directives despite potential disagreements within my caregiving community (family, friends, other)? After this reflection, I will talk to the following people about becoming my Financial POA?

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