

Please note that this Information Paper only provides basic information and is not intended to serve as a substitute for personal consultations with a Legal Assistance Attorney.



POWERS OF ATTORNEY

I. What is a Power of Attorney (POA)?

A Power of Attorney (POA) is a written instrument that allows you (the "principal") to authorize someone else (your "agent" or "attorney-in-fact") to act on your behalf and carry on your business in your absence. The person given the POA is called the agent or attorney-in-fact. The person granting the POA is called the principal.

II. Who is bound by a Power of Attorney?

There is no legal requirement that anyone recognize a POA. Many businesses will only accept a power of attorney if it is timely and has specific language they find acceptable. As such, it is always wise to contact individual agencies such as your bank, creditors, and even military organizations such as DFAS to find out what type of POA they will or will not accept. In addition, in many states there are certain actions that cannot be accomplished with a POA because these actions are so personal they cannot be delegated to another (e.g., voting in an election).

If the agent performs acts authorized under the POA, the principal is legally responsible for those acts.

III. What is the difference between a Special, a General, and a Health Care Power of Attorney?

There are three basic types of powers of attorney: general, special, and health care. A general POA allows your agent to do most things that you could legally do yourself, from obtaining a pay-day loan to signing a rental agreement. A special (or limited) POA only allows your agent to perform specified acts. For example: "I authorize my wife, Jane Doe, to register my 2011 Honda Civic with the State of Florida when its current registration expires." A health care power of attorney allows your agent to make health care decisions for you if you become incapacitated and cannot make your own decisions.

Because of its tremendous scope, a general POA is one of the most powerful and dangerous legal instruments you could execute. You should, therefore, exercise great

caution in deciding to grant a general POA. It should only be granted to someone in whom you have absolute trust and confidence.

IV. How can the scope of a POA be limited?

You should grant no greater power than is necessary. If you only need someone to perform certain tasks for you, you do not need a general POA. Instead, give a *Special* POA, one that will limit your agent's authority to those specific tasks. Also, the POA should have an expiration date in order to protect the principal. Never give a POA for longer than the agent's services are actually needed. Only one original POA is normally executed. A photocopy of a POA is generally useless because it does not bear the principal's original signature or the notary's seal.

V. How long does the Power last?

A POA will terminate upon: a) a date specified in the document; b) the death of either you or your agent; c) your mental incapacitation; or revocation. A durable provision in a general POA permits the agent to act on behalf of the principal when the principal can no longer make decisions.

Never make a POA indefinite.

VI. How can a POA be revoked?

Should you desire to revoke a POA prior to its stated termination date, you should be aware that, once executed, it is difficult to prevent a POA from being used. There are some steps that may give the grantor some limited protection. These steps include, but are not limited to, (a) recording a revocation in the counties in which the POA may be used; (b) publishing notice in the newspapers in the same counties as above that the grantor has revoked the POA; and (c) sending a copy of the revocation to the grantee via registered or certified mail, return receipt requested. Should you desire to revoke your POA prior to its stated termination date, you should seek assistance of the Legal Assistance Office or of a civilian attorney in order to do so.

The USARAF/SETAF Legal Assistance Office number is DSN: 634-7041, Com: 0444-71-7041. If you need more information, please call for an appointment with one of our attorneys.

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