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Power of Attorney-Get These Answers!

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Why should I have a durable power of attorney?

To avoid the possibility that an incompetency and guardianship proceeding might be required to pay your bills and manage your financial and personal affairs if you should become incapacitated.

When I sign a power of attorney, how are the people involved described?

The person who makes the power of attorney is the principal or grantor. The person who receives the power of attorney is the grantee, attorney-in-fact or agent. An agent is someone who is authorized to act on behalf of the principal. All of the described powers in a power of attorney flow to the agent who may use them on behalf of the principal with third parties (banks, brokers, doctors, etc.) for the benefit of the principal.

Whom should I appoint to serve as my representative under my power of attorney?

You should appoint someone you have total confidence in, who has the skills to do a good job, and who will accept the responsibility if the need arises. You should tell the person you select and obtain their consent and commitment to act.

What should a power of attorney cover?

It should direct and empower the appointed representative to do all the necessary things to manage your financial and personal affairs. Personal affairs may include both medical and custodial problems and decisions.

When is the named representative authorized to act?

Generally, authority is granted as soon as the document is signed. Where this is not what the principal wants, the document may require a doctor's certification of incapacity before authorization to act is granted.

Are all powers of attorney the same?

No. There will be a difference between stationary store documents and lawyer drawn documents. There will be both obvious and subtle differences between lawyer drawn documents and software produced documents. There will be differences between the documents drafted by different lawyers.

What should someone consider when having a power of attorney made?

A power of attorney should address the problems the principal may face. Generally, a power of attorney allows the agent to stand in the shoes of the principal, to take care of the principal, and do the things described in the power of attorney document. To illustrate, here are some things powers of attorney generally don't provide authority for:

- (1) To take care of the principal's wife, children or parents.
- (2) To take care of the principal's pets.
- (3) To run the principal's business.
- (4) To withdraw funds from the principal's IRA, 401(k) or pension plan.
- (5) To access or control the principal's Revocable Living Trust.

Do I need both a business and financial power of attorney, as well as a healthcare power of attorney?

If the same person is acting in the capacity of both the financial agent and the healthcare surrogate or healthcare agent, provisions for both responsibilities may be contained in one document. If different people will serve in these capacities, two documents will be necessary.