



Q & A: Do I Need a Power of Attorney?

What is a Power of Attorney Anyway?

A power of attorney (POA) is an arrangement where one person (the principal) appoints another person (the agent) to act on behalf of the principal regarding matters specified within the scope of the POA. Historically, the agent lost the power to act on the principal's behalf when the principal became incapacitated. Durable POAs, which survive the disability or incapacity of a principal, are important tools people can use to allow others to assist them in the event of incapacity.

Are There Different Kinds of POAs?

Yes, there are two basic kinds of POAs – for health care matters and for general financial matters. Health care POAs can come in different forms, but all basically give an agent authority to decide about treatment when the principal is incapacitated. Attorneys prepare these forms, hospitals have them, and the Five Wishes® document is an expanded version of a health care POA. A general (financial) POA can be written narrowly or broadly, to cover decisions of a particular nature, and addressing specific or general areas. Financial POAs may be general in either scope or the authority of the agent to act, and in accordance with Colorado's adoption of the Uniform Power of Attorney Act, which became effective January 2010, these POAs are durable unless specified otherwise.

What if I Change My Mind About my Agent or the POA Itself?

POAs generally remain revocable as long as the principal is able to communicate.

Why Might Someone Want a Power of Attorney?

A power of attorney allows the principal to pick an agent in advance, so that one person is charged with being an agent. This means that a conflict over who will serve can typically be avoided, and usually means that an expensive trip

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to probate court to give a person the authority to act on another's behalf will be unnecessary.

How Is a POA Different From a Living Will?

A Living Will is known as an Advance Directive, which is a document that must be signed by the declarant (the person making their wishes known), witnessed by two persons, and notarized. It is very narrow in application and only applies in the event of a "terminal condition," which is not the same as the standard medical definition of "terminal" which means not likely to survive more than six months. The Living Will covers "life-sustaining procedures" and hydration.

What Happens if I Don't Have a Health Care POA?

Colorado law (Colo.Rev.Stat §15-18.5-101) provides an informal process triggered by a physician to allow another person to consent or refuse treatment. Family members or others who know the patient may be consulted when there is no guardian or agent. There may be need for guardianship proceedings to be initiated if there is long-term disability.

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