

## ***Powers of Attorney***

**THIS PAMPHLET** contains basic information on this particular legal topic for your general information. If you have specific questions, contact the Legal Assistance Office.



### **Legal Assistance Office** Client Services Division

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**Office of the Staff Judge Advocate**  
USAACE & Fort Rucker  
Building 5700, Suite 320, Novosel Street  
Fort Rucker, AL 36362-5105  
334-255-3482





## Powers of Attorney

### What is a Power of Attorney?

A Power of Attorney (or “POA”) is a document whereby you authorize another individual (your “attorney”) to sign your name and perform certain acts in your name. You (the “grantor”) are subsequently bound by the acts of the person you appoint. The name “attorney” in this sense actually means “agent,” and the person you appoint does not have to be a lawyer.

### What are the different types of Powers of Attorney?

Our office prepares two broad types of POAs: General Powers of Attorney and Special Powers of Attorney.

*Note: Our office also provides Durable Healthcare Powers of Attorney, which can be used to appoint agents to carry out your wishes regarding your medical care and treatment. Those documents are discussed more fully with Living Wills/Advance Medical Directives in the Health Care Planning Preventative Law Pamphlet.*

### What is a General Power of Attorney?

A General Power of Attorney broadly grants your agent the power to do anything in your name you can do for yourself. When your agent acts, you are legally responsible for all acts performed and bound by any of their actions carried out in your name. For example, if your agent buys a house in your name, you are liable for the house. Likewise, if an agent sells off your estate or empties your bank accounts, you are bound by those actions. For those reasons, you should be very careful about granting a General Power of Attorney. Our office can prepare a General Power of Attorney that is valid for up to three years.

### What is a Special Power of Attorney?

A Special Power of Attorney is a document whereby you authorize someone to perform a specific (or limited) act for you. One example is when you leave a state and want someone to sell your vehicle for you after you leave. Our office can draft Special Powers of Attorney that very narrowly allow specific people to perform certain acts for you. By not granting broad power, you protect your interests. Our office can prepare a Special Power of Attorney that is valid for up to three years.

### Can I grant a Special Power of Attorney for someone to care for my Child?

Yes, a Medical Power of Attorney can be given by the natural parent or the legal guardian of a child to allow someone else to authorize medical care and treatment. A step-parent does not have the legal authority to give a power of attorney to a third person for his or her step-child. Only an adoption grants full parental powers to a step-parent to include the power to give a Medical Power of Attorney.

Furthermore, unless the step-parent has been given a Medical Power of Attorney from the natural parent, in some instances the step-parent cannot give permission for medical care of the step-child.

### What is a Durable Power of Attorney?





Normally, a Power of Attorney becomes invalid in the event you become incapacitated or otherwise incapable of making decisions for yourself. For example, if you have an accident or illness that results in a coma, your Power of Attorney would normally be invalid and your agent could no longer act in your name.

However, a Durable Power of Attorney provides that in the event that you become incapacitated, the power of attorney will still be in force and your agent can continue to act.

### **What is a Springing Power of Attorney?**

A Springing Power of Attorney is a very effective estate planning tool. These “spring” into effect upon a pre-identified occurrence, normally the grantor becoming incapacitated or otherwise unable to communicate their intent. These can also “spring” into effect upon a Servicemember being deployed or declared a Prisoner of War. Because Springing Powers of Attorney are not effective until the event, they prevent others from exercising your authority when there is really no need.

### **How long is my Power of Attorney valid?**

You can make a Power of Attorney valid for any time period up to three years. Powers of Attorney are very difficult to revoke, and our Office does not draft Powers of Attorney for longer than three years. The exception is for Springing Powers of Attorney, which can be effective indefinitely.

### **Is there anything else I should know?**

Regardless of the type of power of attorney needed, you should think carefully about the risks and benefits involved. Granting a power of attorney is an act that must be done freely, voluntarily, and without any kind of undue influence or coercion. The person granting the power of attorney must possess the capacity necessary to make this decision. If a person is terminally ill and taking medication that may impair his or her ability to understand the document he or she is signing, our office cannot legally execute a power of attorney, regardless of whether or not it was prepared in our office.

When you anticipate a long term hospitalization, or when you know that you have a terminal illness, you should exercise caution in choosing your agent. Additionally, if you need a power of attorney, you should grant this power before becoming hospitalized and before you become legally unable to make or communicate this decision.



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