

You Have a Power of Attorney! Now What?

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What is a power of attorney?

- Appoints an agent for your finances
- Agent steps into your shoes as to your finances
- Can be used once you and your agent sign
- Remains effective until revoked or until death
- “Durable” – survives incapacity
- Can allow your agent to “gift” your assets

 New York State Bar Association
New York Statutory Short Form Power of Attorney, Eff. 6/13/21

**POWER OF ATTORNEY
NEW YORK STATUTORY SHORT FORM**

(a) **CAUTION TO THE PRINCIPAL:** Your Power of Attorney is an important document. As the “principal,” you give the person whom you choose (your “agent”) authority to spend your money and sell or dispose of your property during your lifetime without telling you. You do not lose your authority to act even though you have given your agent similar authority.

When your agent exercises this authority, he or she must act according to any instructions you have provided or, where there are no specific instructions, in your best interest. “Important Information for the Agent” at the end of this document describes your agent’s responsibilities.

Your agent can act on your behalf only after signing the Power of Attorney before a notary public.

You can request information from your agent at any time. If you are revoking a prior Power of Attorney, you should provide written notice of the revocation to your prior agent(s) and to any third parties who may have acted upon it, including the financial institutions where your accounts are located.

You can revoke or terminate your Power of Attorney at any time for any reason as long as you are of sound mind. If you are no longer of sound mind, a court can remove an agent for acting improperly.

Your agent cannot make health care decisions for you. You may execute a “Health Care Proxy” to do this.

The law governing Powers of Attorney is contained in the New York General Obligations Law, Article 5, Title 15. This law is available at a law library, or online through the New York State Senate or Assembly websites, www.nysenate.gov or www.nyassembly.gov.

If there is anything about this document that you do not understand, you should ask a lawyer of your own choosing to explain it to you.

(b) **DESIGNATION OF AGENT(S):**

I, _____
(name of principal) (address of principal)

hereby appoint:

(name of agent) (address of agent)

(name of second agent) (address of second agent)

as my agent(s).

1

What is a power of attorney not?

- Does not appoint someone to make health care decisions for you.
- Does not appoint someone to manage your estate.

Now What?

Step 1: Talk to your agent

- What do you want your agent to help you with?
- What do you still want to do on your own?
- Do you think you will need to qualify for Medicaid in the future?
- Do you think you will need to do estate tax planning?

Now What?

Step 2: Give your POA to Banks, etc.

- Financial institutions need to review the document before they will allow you to use it.
- Make sure they give your original back!
- Banks may require a specific POA for their own institution.

Now What?

Step 3: Possible Medicaid Planning

- Powers of Attorney can help your agent preserve and manage your assets with the goal of becoming eligible for Medicaid.
- If this is something you want, discuss this with your attorney when they are preparing the document! Medicaid rules are complicated and changing.
- Agent needs specific authority to “gift” your assets.

Now What?

Step 4: Check for Updates

- Most recent update in June 2021.
- Make it easier for your agent (and banks) to honor your wishes.

Thank you for coming!

Questions?

Regina Matos, Esq.

Kommer Bave & Ciccone LLP

145 Huguenot St., Ste. 402

New Rochelle, NY 10801

(914) 633-7400

www.kbcattorneys.com