

# GET STARTED:

## LEGAL

a guide to the legal documents you need  
to act on your parent's behalf

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# THE BASICS

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AS A CAREGIVER, YOU NEED THESE **THREE DOCUMENTS** TO LEGALLY MAKE DECISIONS FOR YOUR PARENTS.

## POWERS OF ATTORNEY:



### 1. DURABLE FINANCIAL POWER OF ATTORNEY

You need this document in order to make any **financial decisions** using your parents' assets (ex: writing checks on their behalf).



### 2. DURABLE HEALTHCARE POWER OF ATTORNEY

You need this document in order to make any **healthcare decisions** on your parents' behalf (ex: hiring or firing medical personnel).



### 3. LIVING WILL

You need this document in order to make decisions for your parents' **end-of-life care** (ex: life-prolonging treatments).

# WHAT IS A POWER OF ATTORNEY?

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## DEFINITIONS OF POAs:



### POWER OF ATTORNEY (POA):

A POA is legal document that authorizes a selected person (“agent”\*) to **act on the behalf** of another person (“principal”). The principal decides **under which circumstances** the POA will take effect and the specific areas within which the agent has the authority to make a decision. Typically, a POA will take effect once the principal is considered **incapacitated** (unable to make their own decisions). However, there are exceptions where a principal may grant the agent authority to act on their behalf simply when they are not present (ex: spouses often authorize each other to sign on their behalf).

\* An agent can also be known as an “Attorney-in Fact.”

### THERE ARE TWO TYPES OF POAS:



#### FINANCIAL POWER-OF ATTORNEY

allows a family caregiver (agent) to manage their loved one’s **finances**



#### HEALTHCARE POWER-OF ATTORNEY\*

allows a family caregiver (agent) to make **medical decisions** on behalf of their loved one

\* Can also be known as a “Health Care Proxy”

# WHAT IS A POWER OF ATTORNEY?

## FUNCTIONS OF POAs:

### WITH A...



### DURABLE FINANCIAL POWER OF ATTORNEY

### YOU CAN...

- Write checks on behalf of your parents
- Pay their bills online or by mail
- Use their assets or income to pay any expenses
- Buy or sell property on their behalf
- Do their taxes
- Buy or sell insurance policies
- Handle transactions with banks or accounts
- Invest their money
- Operate your parent's business
- Hire somebody to represent them in court

### WITH A...



### DURABLE HEALTHCARE POWER OF ATTORNEY

### YOU CAN...

- Hire or fire medical personnel
- Make decisions about medical facilities
- Visit your parent in the hospital outside of normal visiting hours
- Gain access to their personal information and medical records
- Get court authorization to uphold your decision to obtain or withhold medical treatment, if the hospital does not honor your authority as power-of-attorney

# WHAT IS A POWER OF ATTORNEY?

## IMPORTANT POA TERMS:

These terms tell you about **HOW** and **WHEN** the legal document will take effect.

### GENERAL VS. LIMITED

gives broad authorization to the agent when the principal becomes incapacitated

authorizes the agent to make decisions and perform functions only directly specified in the POA

### IMMEDIATE VS. SPRINGING

takes effect upon its creation

takes effect when a specific event specified by the principal occurs (ex: being determined incompetent by a medical professional)

### DURABLE VS. TRADITIONAL

continues to operate when the person for whom it was written is mentally incapacitated (no longer able to make their own decisions)

is terminated when the principal becomes incapacitated or dies

### IMPORTANT TIP

For caregivers, or adult children acting on their parent's behalf, it is very important that you make sure your POA is **DURABLE**.

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# WHAT IS A LIVING WILL?

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## DEFINITION OF LIVING WILL:



### LIVING WILL

A living will is a written statement that **details a person's preferences** for end-of-life medical care. It informs health professionals about choices regarding **life prolonging treatments**. It becomes effective when the principal becomes incapacitated and allows for an elected agent to make decisions **according to the document**.

\* A living will can also be known as an "Advance Directive."

## FUNCTIONS OF LIVING WILLS:

### WITH A...



### LIVING WILL

### YOU CAN

- Oversee medical care to ensure that it adheres to the exact parameters defined in the living will

*This may include decisions regarding:*

- life-sustaining treatment
- provision of food and hydration
- activation of a healthcare proxy

# COMPARING POA VERSUS LIVING WILL

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## WHAT'S THE DIFFERENCE BETWEEN A HEALTHCARE POA AND A LIVING WILL?

A **HEALTHCARE POA** gives the agent permission to make **real-time decisions** if the principal is incapacitated, whereas a **LIVING WILL** is a **static set of directions** written out by the principal that details their end-of-life care preferences.



### BENEFIT OF A HEALTHCARE POA:

gives the agent the ability to make real-time decisions in **actual cirtumstances**, instead of advance decisions framed in hypothetical situations (as in a living will)



### BENEFIT OF A LIVING WILL:

allows the principal to ensure that their **preferences are respected**, and limits the agent's ability to make decisions that may not align with the principal's wishes

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# OBTAINING THE LEGAL DOCUMENTS

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## CREATING A POA OR LIVING WILL IS RELATIVELY SIMPLE.

You do not need a lawyer to create one -- you just need to fill out a POA form. However, may want to consult a lawyer or your local area agency on aging for advice specific to your situation.

### SIX PLACES TO FIND FREE LEGAL FORMS:

1. local senior centers
2. local hospitals
3. your physician
4. your state's medical association
5. the National Hospice and Palliative Care Organization
6. online



**READ MORE:**  
5 places to create a POA online

#### TIP

Have multiple **ORIGINAL COPIES** made. Most places (banks, hospitals, etc.) will require an original copy.



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# WHAT TO DO WITH THE DOCUMENTS

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## CERTAIN KEY PEOPLE AND INSTUTIONS MUST HAVE COPIES OF YOUR POAs.

In particular, you must put your POAs on file at any financial or health care institution where you will be acting on your loved one's behalf. Each insitution has their own POA policies, so you should call to inquire about the procedures for putting your POAs on file.



**KEEP YOUR POAs IN A SAFE BUT EASILY ACCESSIBLE PLACE.**



**GIVE COPIES TO YOUR FAMILY MEMBERS.**



**GIVE COPIES TO YOUR HEALTH CARE AGENT/PROXY.**



**GIVE COPIES TO YOUR DOCTOR.**



**PUT YOUR HEALTHCARE AND FINANCIAL POAS ON FILE AT THE HOSPITAL.**



**PUT YOUR FINANCIAL POA ON FILE AT THE BANK.**

# NEXT STEPS

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**BESIDES THE POA AND LIVING WILL, HERE ARE THE OTHER IMPORTANT DOCUMENTS THAT MAY PROVE USEFUL.**

## PERSONAL INFORMATION:

- ☐ birth certificates & death certificates
- ☐ social security numbers
- ☐ marriage certificates
- ☐ divorce & separation records
- ☐ retirement papers
- ☐ medical bills & records
- ☐ funeral arrangements
- ☐ documentation regarding military service

## HOME & PROPERTY RECORDS:

- ☐ homeowner's policy
- ☐ titles & deeds
- ☐ mortgage notes
- ☐ auto ownership records
- ☐ car insurance
- ☐ paper stock certificates
- ☐ safe box combination
- ☐ list of stored & loaned items

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