

## ***You Are Mom's Power of Attorney – Now What?***

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Your loved one has just returned from the lawyer's office, asking (or telling) you to serve as their power of attorney. So, what does that even mean?

Powers of attorney are documents appointing someone to make decisions on the grantors' behalf. Though they are also used in matters involving business, custody, long-term traveling, and imprisonment, they are most often used as an "estate planning" or "disability planning" tool. Why? Because only a power of attorney OR a court-appointed guardian can legally make health care or financial decisions on behalf of an incapacitated adult. So, if your loved one has signed a power of attorney, they are planning ahead to avoid court involvement if they are ever physically or mentally unable to handle their affairs.

There are two general types of powers of attorney: health care or financial. An agent under a health care power of attorney serves as the decision-maker for health care matters. In most cases, the duties and authorities of the health care power of attorney "spring up" if and when the grantor of the power is unable to make their own decisions. Although a grantor of the health care power of attorney can restrict the types of decisions that their agent can make, the health care powers are generally broad.

A financial power of attorney, on the other hand, can be very limited or very broad, depending on why it was created. Though a limited power of attorney is used for specialized circumstances (such as attending a real estate closing on someone's behalf), a general (broad) power of attorney is more likely what the grantor signed when they met with a lawyer to prepare an "estate plan". Most often, a general financial power is durable, meaning that it is valid as soon as it is signed, and continues to be valid unless or until it is revoked or the grantor of the power of attorney dies. Even though it is likely valid now, most often the lawyer will advise you not to use it until the grantor's physical or mental health has declined to the point where they need someone to manage their financial matters on their behalf.

If you are serving as someone's power of attorney, you owe that person a legal duty to act in their best interests. In the case of a financial power of attorney, you are only permitted to use the loved one's resources to provide for their needs, unless the document provides broader authority to make gifts.

When the grantor dies, the power of attorney becomes invalid. Once you have learned of the death, you must cease using the power of attorney immediately, or risk civil lawsuits or criminal sequences. There are a separate set of laws and documents that will come into play after the death.