

# Power of Attorney



Senior citizens are often targets of financial frauds, and if memory loss is a problem, keeping up with even normal transactions can lead to problems such as missed payments. In addition, with contemporary medical advances, a person might be relatively functional far beyond their capacity to astutely judge opportunities or make strategic decisions about their finances, property or themselves. These are some of the reasons why questions about “power of attorney” are the most common legal issues in the care of an aging relative.

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## What Is It?

In general, there are two kinds of powers of attorney: power of attorney for financial and legal matters, and power of attorney for health care. It can also be limited to a specific asset or property, childcare or whatever one assigns it to. Both are a way of handing over decision-making powers to someone else, and both must be established while a person is still competent.

Power of attorney can be granted to a relative, friend or anyone else that a person trusts. You can set up either a durable or a springing power of attorney. Here are the differences between the two:

- **Durable, or Blanket**—The person who holds this power of attorney has free access immediately to the affected accounts or can make immediate medical decisions about a person. This power of attorney continues beyond the point when the person granting it becomes incompetent—thus the term “durable.”
- **Springing, or Contingent**—The power of attorney “springs” into effect when the person becomes incapacitated. For example, when someone is impaired due to an accident or other emergency.

## When Should It Be Granted?

Power of attorney must be granted when the person granting it is of sound mind and body, so it is best done before it is needed. As the caretaker for an older person, consider discussing the issue with them. If they are still able to handle their financial affairs and make medical decisions about themselves, they will probably not be comfortable granting blanket power of attorney. It might be wise, however, to set up a contingent power of attorney in case of an emergency. In fact, some lawyers recommend that clients, old or young, consider setting up a contingent power of attorney—since anyone can suffer mental or physical impairment at any time.

## How Is It Done?

You can fill out a form to grant power of attorney, or you can consult with an attorney. Some institutions may have their own requirements. Generally, with important issues such as this, it is worth the time and money to consult with an attorney who specializes in the growing field of elder law. If you can’t afford an attorney, contact your local Legal Aid Society or other association that provides legal help for no cost or reduced cost.