



STATESIDELEGAL

Legal help for military members, veterans and their families

Stateside Legal™ Self-Help Sample Forms Packet Durable Power of Attorney

This self-help resource was created by the Stateside Legal Project. Stateside Legal provides these sample forms and information free of charge to individuals with military connections (IMC). These forms are not based upon any specific state law or jurisdiction. They are intended as samples.

READ ALL INSTRUCTIONS AT THE END OF THIS PACKET VERY CAREFULLY. SOME CONTENT HAS BEEN PROVIDED BY THE DEPARTMENT OF DEFENSE AND THE ARMED FORCES LEGAL ASSISTANCE.

WARNING: A POWER OF ATTORNEY IS A VERY POWERFUL DOCUMENT. CHOOSE YOUR AGENT VERY CAREFULLY.

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***DISCLAIMER:** The Stateside Legal Information Series is produced by the Pine Tree Legal Assistance of Maine®, Arkansas Legal Services Partnership®, and the Legal Services Corporation®. These organizations promote or provide free legal services to eligible low-income people. Additional information can be found at www.lsc.gov. This sample form packet is given to you as a guide to help you generally understand the way legal matters are handled. Local courts interpret things differently. The information and statements of law contained in this fact sheet are not intended to be used as legal advice. Before you take any action, talk to an attorney and follow his or her advice. Always do what the court tells you to do.*

DURABLE POWER OF ATTORNEY

KNOW ALL BY THESE PRESENTS:

I, SERVICEMEMBER NAME, by these presents do make, constitute, and appoint AGENT NAME 1, of CITY, STATE and AGENT NAME 2, of CITY, STATE either individually or jointly, as my true and lawful attorney(s)-in-fact, for use and in my name and stead to execute all documents, and to do any and all things on my behalf, including, but not limited to, the conduct of my business and personal affairs, execution of deeds, mortgages, and all documents affecting title to real or personal property and any and all interests therein, with full power to substitute an attorney or attorneys under them in the premises, giving and granting unto each of the said attorney(s)-in-fact full and complete power and authority to do, say, act, transact and perform each, any, all and every act, thing and deed whatsoever as fully to all intents and purposes as I might or could do if personally present and acting in my own behalf, including, but not limited to entry into safety deposit boxes and authority to sign all checks on all my banking accounts and to transfer, cash and deal in any way with certificates of deposit or other securities.

I hereby make, constitute and appoint AGENT NAME 1, of CITY, STATE and AGENT NAME 2, of CITY, STATE either individually or jointly, as my attorney(s)-in-fact and do give them authority to release and relinquish all my rights of curtesy, homestead, sale, appraisalment and redemption respectively, in and to all real property in which I have any interest.

I hereby ratify and confirm each and everything whatsoever my attorney(s), or their substitution attorney(s), may or shall do in my premises by virtue hereof.

This power of attorney shall not be affected by my subsequent disability or incapacity.

IN WITNESS WHEREOF, I have hereunto set my hand on this day, _____.

SERVICEMEMBER NAME, Grantor

ACKNOWLEDGMENT

STATE OF _____)
) SS
COUNTY OF _____)

On this day personally appeared before me, the undersigned Notary Public, duly commissioned and acting in and for the County/City of _____ and State of _____, known to me to be the person whose name is subscribed to the within instrument and acknowledged that she executed the same for the purpose therein mentioned and set forth.

WITNESS my hand and official seal this _____ day of _____, 20_____.

Fulfilling

NOTARY PUBLIC

IMPORTANT NOTICE: This is a Sample Durable Power of Attorney Form. It is based on general law. It is always best to consult with an attorney. If you are active duty then your Legal Assistance staff can prepare a Durable Power of Attorney based on your specific own needs.

LAW YOU SHOULD KNOW FULFILLING

A Durable Power of Attorney (POA) is a legal way to have one person act on behalf of another if you should become incapacitated. A Durable POA remains, or becomes effective, if you become incompetent. Incompetent means that you are unable to manage your affairs.

A Durable POA must contain exact language stating that your intent is for the agent you select to act on your behalf if you become incapacitated. Without that language it will not be valid if you do become incapacitated.

A Power of Attorney document gives someone authority to act on your behalf on matters that you list in the document. The power can be specific to a certain task or can cover many duties including financial and medical. The power can start immediately or only after some event occurs such as the principal becoming mentally incompetent. A power of attorney does not take away your right to act on your behalf.

ALL STATES ARE REQUIRED TO RECOGNIZE MILITARY POWERS OF ATTORNEY

Federal law demands that a Military Power of Attorney instrument be given legal effect without regard to specific state law. Also, they are “from any requirement of form, substance, formality, or recording” that may be normally required by different states. See (10 U.S.C. §1044(b)).

DIFFERENT TYPES OF POWER OF ATTORNEYS: There are different types of Powers of Attorney. Each type has a different purpose and grants different levels of power to the agent.

- **Durable Power of Attorney:** A power of attorney that either remains or becomes effective if you become incompetent.
- **General Power of Attorney:** This type of power of attorney allows the agent to carry on business or other matters for the principal. This type of document has very broad powers.
- **Special Power of Attorney:** A Special Power of Attorney limits the power of attorney. The agent is to carry out only specific matters for the principal that are listed in the document.
- **Durable Power of Attorney for Healthcare:** A Durable Power of Attorney for Health Care is an advance health care directive. It allows you to appoint an agent to make health care decisions for you. This includes the power to consent to or withdraw from any type of medical treatment, even if death results. The agent can use the powers given all through the principal’s life. These powers are effective even after the principal becomes disabled, unless it is revoked or the court revokes it. The principal may combine a Durable Power of Attorney with a Living Will.

When does a Power of Attorney End?

A Power of Attorney can end either by setting a specific date for it to end, if the agent or principal dies or if the principal revokes it in writing. You can revoke a Power of Attorney by giving written notice to the agent. If a Power of Attorney is durable, and you become incompetent, only the court can revoke it during the time you are incompetent. This could happen if an interested party petitions the court on your behalf, alleging that the attorney-in-fact has violated his or her responsibilities.

More Information: For information about Stateside Legal or many more topics about Individual with Military Connections visit www.statesidelegal.org or contact your local Judge Advocate General's Corps office.

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