

Professional Portfolio

Legal: **Thomas M. Butz**

The Facts About Powers of Attorney

Are you prepared if an illness, an accident or even just the effects of aging have caused you to be unable to communicate with your doctor's as to your health care treatment, or make it difficult or impossible to handle your personal financial affairs? The harsh truth is that most families will, at one time or another, confront these very issues. In order to prepare for these issues, it is important that a Power of Attorney be part of your financial and estate planning.

A Power of Attorney is a legal document that allows you to appoint another individual (your Agent) to transact business on your behalf. The powers that you give to your Agent under a Power of Attorney can be as broad or as restrictive as you like. It is possible to give your Agent the ability to act on your behalf for one transaction only, for example, the purchase or sale of a piece of real estate. It is also possible to give your Agent the ability to act on your behalf on a much broader scope, for example, to be able to handle all banking transactions or any other financial transactions. In effect, a Power of Attorney can allow your Agent to transact any business that you yourself would be able to transact on your own behalf.

There are different types of Powers of Attorney that act in different ways. There is a "Nondurable", "Durable" and "Springing" Powers of Attorney. A "Nondurable" Power of Attorney can take effect immediately and it will remain valid until revoked by the individual who granted the power (the "Principal"), or until the Principal becomes mentally incapacitated or dies.

A "Durable" Power of Attorney will allow the Agent to continue to transact business for the Principal even after the Principal has become mentally incapacitated or otherwise is unable to make reasoned decisions. Just as with the "Nondurable" Power of Attorney, the "Durable" Power of Attorney may be used immediately, and will remain effective until it is revoked by the Principal or until the Principal dies.

Finally, a "Springing" Power of Attorney only becomes effective at a future time or upon the happening of a future event. Often, the "springing" event is the illness or disability of the Principal. In using a "Springing" Power of Attorney the document will usually provide that the Principal's physician will determine whether he or she is competent to handle their financial affairs or make reasoned decisions. Just as with the other two types of Powers of Attorney, a "Springing" Power of Attorney will remain in effect until the Principal's death or until it is revoked by a Court.

With all of these types of Powers of Attorney, you can give an individual as much or as little authority over your finances as you decide. Your Agent however, should be someone who you trust implicitly. This is extremely important. This individual will not only have access to your financial records, but also to your assets as well. The individual selected should be someone who will act solely on your behalf, and not use the powers granted to him or her to benefit themselves.

Another type of Power of Attorney that is equally as important as the financial Power of Attorney is the Medical Power of Attorney. This document allows you to designate an individual to make medical or health care decisions for you, should you ever be unable to make those decisions for yourself. Just as with the financial Powers of Attorney, your health care Agent should be an individual that you not only trust, but also someone who is aware of your preferences regarding the type of health care treatments that you would wish to have administered to you.

Both of the Financial and Medical Powers of Attorney discussed in this article are fairly straightforward and simple documents to prepare and are well worth the time and effort it takes to have them be a part of your financial and estate planning. The piece of mind that it will give both you and your family cannot be underestimated.



Thomas M. Butz is a Partner in the law firm of Smith Butz, LLC and concentrates his practice in the areas of Estate and Trust Planning, Estate and Trust Administration, Asset Protection and Civil Litigation. Smith Butz, LLC is a full service law firm located in Southpointe at 125 Technology Drive, Suite 202, Canonsburg, PA 15317. For more information, call 724-745-5121 or visit www.smithbutzlaw.com