



# POWER OF ATTORNEY INFORMATION

Legal Assistance Office, Bldg 54-A • Coast Guard Island, Alameda, CA 94501 • (510) 437-5891 • D11-SMB-D11LegalAssistance@uscg.mil



Your power of attorney (POA) is a very powerful legal document that you should use cautiously. It is important to completely understand the meaning and effect of your power of attorney. The power of attorney is one of the strongest legal documents that an individual can give to another person. Accordingly, you must be making it of your own free will. Your POA gives your agent authority to make decisions and act for you. You may give a few powers or you may give many powers. Generally, a POA drafted by this office is valid for one year or less. It authorizes your agent (“grantee” or “attorney in fact”) to act on your behalf and carry on your business in your absence.

**Please note** that a person or business does **not** have to accept or acknowledge your power of attorney.

## WHEN SHOULD I USE A POWER OF ATTORNEY?

Most often, you may use a power of attorney when you cannot be present and you want someone to accomplish something for you. For example, you want your agent to sell your car while you are deployed. You also may want to have a power of attorney for certain emergency situations. Depending on the purpose - what you want your agent to do – and the length of your absence, you may wish to put certain limiting instructions in your power of attorney.

You should give the original to your agent and keep a second copy for yourself. Photocopies of your power of attorney are generally unacceptable because they do not contain original signatures of the notarial seal.

You should not make a power of attorney last any longer than is necessary. Your power of attorney will automatically terminate upon death of either you or your agent or **if you become mentally/physically incapacitated**. Otherwise, it will terminate on the date that you specified in the document.

**Note:** third parties (i.e. banks, businesses) need not accept or acknowledge your power of attorney; it is totally within their discretion to do so. Some businesses and government agencies (i.e., Internal Revenue Service) require you use their form power of attorney. You should check with the business or agency where your agent will use your power of attorney to ensure it will be accepted.

## WHO SHOULD I NAME AS MY AGENT IN MY POWER OF ATTORNEY?

Someone you trust. You may name you spouse, a relative, or a trusted friend. The person you designate must be at least 18 years old. In addition, you should make sure the person can intelligently handle your affairs and can carry out your wishes in case he or she needs to negotiate a price or to persuade someone to accept the power of attorney. The person should be trustworthy, mature, and capable of understanding the great responsibility that goes with having a power of attorney. Keep in mind that your agent will not bear the responsibility of their actions while acting under your power of attorney – you will. Their actions legally bind you. A power of attorney is, in a sense, like a blank check.

## WHICH TYPE OF POWER OF ATTORNEY SHOULD I USE?

A **General Power Of Attorney** authorizes your agent to do any number of acts relating to your property and personal affairs. Because this document grants broad, virtually unlimited, authority to your agent, it must only be given to a person you trust completely. If you think you need a general power of attorney, consult a legal assistance attorney at your local legal assistance office.

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A **Special Power Of Attorney** authorizes your agent to do one or more certain **specified** acts, such as selling your car, shipping household goods, cashing a paycheck, selling real property, or authorizing emergency medical care for your minor child. You should grant no greater power than is necessary. In addition, your agent (grantee) should be someone in whom you have absolute trust and confidence.

A **Durable Provision In A Power Of Attorney** permits an attorney-in-fact to act on behalf of you (“the principal”) when you can no longer make decisions. It is extremely important that the principal completely trusts the motives and judgment of the individual upon whom he/she is depending for his or her needs. If you have questions or concerns regarding a durable provision, contact a legal assistance provider at your local legal assistance office.

### **WILL A POWER OF ATTORNEY WORK FOR EVERYTHING?**

NO, there are some actions that cannot be accomplished by using a POA because these actions are so personal in nature they cannot be delegated to another. For example, a marriage ceremony or the execution of a will cannot be done by a POA.

### **ALL THIS SOUNDS GOOD. WHY DOESN'T EVERYONE HAVE A POWER OF ATTORNEY?**

A POA can be very useful if you have one when you need it. But it can be abused as well. For example, a husband who just separated from his wife might use the POA she gave him to clean out his individual bank account. A well-meaning elderly person might give a POA to a younger relative, only to discover that the relative squandered and spent the assets of the elderly person. Remember you are legally responsible for your agent’s acts. Therefore, be very careful in selecting your agent.

### **HOW DO I REVOKE A POWER OF ATTORNEY?**

Should you desire to revoke a power of attorney prior to its stated termination date, you should be aware that, once executed, it is difficult to prevent a power of attorney from being used. There are some steps that may give the grantor some limited protection. These steps include, but are not limited to (a) Recording a revocation in the counties in which the power was executed, in which the grantee resides, and in which the power may be used; (b) Publishing notice in the newspapers in the same counties as above that the grantor has revoked the power; and (c) Sending a true copy of the revocation to the grantee via registered or certified mail, return receipt requested. Contact your local legal assistance office for additional information.

### **IF I DEPLOY OR FREQUENTLY TRAVEL. SHOULD I PREPARE A POWER OF ATTORNEY?**

Possibly, but first ask yourself “Do I need a POA?” Some military members prepare a POA for deployment so that their spouse can bank, receive household goods shipments, register the car, and do other such things when the member is away. Many single-soldier parents and dual-military couples with children use a POA as part of their family care plans to set up short-and long-term guardianships from their minor children. You may decide, however, you do not need a POA. If you and your spouse have a joint checking account, your pay is directly deposited into your joint account, and you are not planning on purchasing or selling any large jointly title items such as a car or a house, then you probably do not need a POA. Bottom line - Tailor your power of attorney to our situation.

### **WHERE CAN I LEARN MORE ABOUT A POWER OF ATTORNEY?**

Consult your local Legal Assistance Attorney or check the USCG Legal Assistance web site at <https://www.pacificarea.uscg.mil/District-11-Legal-Assistance/>