

# GENERAL AND DURABLE POWER OF ATTORNEY

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## WHAT IS A GENERAL AND DURABLE POWER OF ATTORNEY?

A General and Durable Power of Attorney is a document in which a person designates another person to manage and conduct all of his or her financial affairs should that person become incapacitated. Some documents do not require incapacitation. This power of attorney designation is revocable and you can change the appointed agent in the future should you desire to do so. It is an effective document that an agent can use, but it can only be used up until the time of death. At that point a Will would take over unless a Revocable Trust has been drafted.

## WHY IS IT NEEDED?

In today's society banks, lending institutions and insurance companies are very protective of their clients' assets. In many years past it had been a little bit easier to manage a loved one's financial affairs when they became incapacitated, however in today's world with all of the protective measures needed by the various financial institutions, it is essential to have a General and Durable Power of Attorney. The General and Durable Power of Attorney attempts to designate the appointment of an agent to conduct all of your financial affairs upon incapacity.

## WHAT DOES IT DO?

This document is meant to be a general and broad power so that your appointed agent can fully handle your financial assets in all capacities. Such powers include the power to acquire, dispose and contract on your behalf, the power to manage real and personal properties, to collect and transact business of whatever kind or nature, the power to execute instruments including the power to deposit, withdraw and invest, and many other powers related to the financial matters that you may have.

Powers given to the agent for gifting purposes should be discussed in detail with the attorney who drafts your General and Durable Power of Attorney. There are varying levels of gifting that should be discussed and explained prior to the execution of the documents. The powers given to the agent can relate to gifting in general, as well as

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divestment and Title XIX power gifting. If there is a desire to qualify for Medicaid there are certain crucial powers that need to be included in the document.

The gifting power given in a Power of Attorney can be a great tool to help with future transfer of your assets. Transferring of your assets to others in order to qualify for future Title XIX benefits may be allowed if legal guidelines are followed.

### **WHO SHOULD BE MY POWER OF ATTORNEY?**

Your Power of Attorney should be a person who you can trust with your assets. Typically, it is a relative or a friend that is close to you and understands your financial needs and your abilities. If you do not have friends and relatives in the area that wish to be a power of attorney for you, it may be necessary to appoint someone in a professional nature to handle your finances through this appointment.

Should you decide you need more information, please contact James W. Pruitt, Esq. at (262) 633-8301 to discuss your Estate Planning needs.