



Understanding Powers of Attorney for Adult Children with Disabilities

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When a child with disabilities reaches the age of majority (typically 18), families face a critical legal and practical question: who will help them make decisions? In the eyes of the law, the child is an adult, and the parents need the appropriate legal authority to help as they always have. Powers of attorney (POAs) offer one potential pathway, allowing the parent(s) to continue acting on behalf of the adult child. Understanding the types of POAs, when they apply, and what alternatives exist is essential for thoughtful, individualized planning that supports autonomy for an adult disabled child.

So, what is a power of attorney? A power of attorney is a legal instrument where one person (the *principal*) authorizes another (the *agent* or *attorney-in-fact*) to act on the principal's behalf. The authority granted can be as broad or as narrow as the principal chooses within the POA itself. In some situations, the principal may even select more than one person to serve as agent – like the principal's parents.

So, what do you need to sign a power of attorney? For those with disabilities, the initial question when considering POAs is whether they have the legal capacity to understand and sign a power of attorney. This level of understanding is often compared to contractual capacity — the individual must comprehend what they are signing, recognize the powers they are granting, and, most importantly, understand that they retain the right to revoke those powers at any time. When capacity exists, a POA can serve as a flexible, empowering tool that allows the individual to retain control while designating trusted support. When capacity is lacking, however, families must look to other legal mechanisms to ensure appropriate protection and advocacy.

So, what types of powers of attorney are there? Preparing a power of can feel a bit like gazing into a crystal ball—trying to anticipate future needs, capacities, and circumstances that may change over time. The goal is to craft a document that offers the right level of support without unnecessarily limiting independence. In some situations, a limited power of attorney may be sufficient. This type of document allows an agent to assist only in specific areas — such as managing a bank account, signing legal forms, or handling benefits applications — while leaving other decisions in the hands of the adult child. More often, however, families choose a General Durable Power of Attorney (DGPOA) because it provides a more comprehensive and enduring framework. A DGPOA authorizes the agent to act across a wide spectrum of financial, legal, and personal matters, such as maintaining bank accounts, communicating with government agencies to preserve public benefits, or signing contracts. A DGPOA isn't just

limited to financial matters, either; it can also include authority for health care decisions—sometimes called a Durable Medical Power of Attorney—ensuring that trusted decision-makers can step in when needed.

So, what does a POA always need? Above all, it is crucial that the power of attorney be designated as “durable.” This durability clause keeps the document in effect even if the adult child later becomes incapacitated, providing continuity and peace of mind for both the child and their family.

So, when should the POA take effect? Another important decision is whether the power of attorney should take effect immediately or only become active upon a doctor's written certification that the adult child is no longer able to manage their affairs. When it's triggered by incapacity in this way, it's called a “springing” power of attorney. Each option has its pros and cons. If the DGPOA is effective immediately, the agent can step in and help without delay. However, this also means the agent could take over tasks that the adult child is perfectly capable of handling, and the adult child wants to handle them (although if the agent is someone the principal trusts, they will respect any boundaries in place). On the other hand, while a springing power of attorney can be helpful if the principal is currently capable but may need support in the future, getting a doctor's certification under a springing power of attorney can take time and may be challenging in urgent situations.

Regardless of when it begins, a well-crafted power of attorney can serve as a versatile tool, empowering the agent to manage bank accounts, apply for public benefits, file taxes, handle real estate or personal property transactions, and represent interests — all in service of protecting the adult child's well-being while preserving their autonomy.

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