



POWERS OF ATTORNEY

*Make sure they work **FOR** you!*

Each year thousands of older adults are exploited by their family members, friends, and caregivers. This often occurs when the Agent acting under Durable General Power of Attorney misuses or abuses the powers that have been granted within the legal document itself.

CONSEQUENCES/RISKS OF POWERS OF ATTORNEY

With a general Power of Attorney (POA), your agent (attorney-in-fact) can transact any business in which you yourself could participate. This means he or she can access your bank accounts, your certificates of deposit, your insurance and annuities, and all other personal property. He or she can also apply for and obtain a mortgage on your home and could even sell your home.

TYPES OF POWERS OF ATTORNEY

Tennessee recognizes two separate and distinct Powers of Attorney—the Durable General Power of Attorney and the Durable Power of Attorney for Health Care. As stated above, the General POA covers business and financial affairs. In contrast, the Durable Power of Attorney for Health Care only covers medical decisions. Be sure to ***read the document and understand which type you are considering before you sign it***; otherwise, you might be granting more authority than you intend.

EFFECTIVE DATES

The POA you sign may be effective the day you sign it or at some date to be determined in the future. If you are signing a POA so that someone can act for you only when you become unable to handle your financial affairs independently, make sure the document is limited to the future. Otherwise, the powers may become effective as soon as you sign them—rather than when you need them. This could give your agent too much authority over you too soon. ***Make sure the POA specifies when it becomes effective***.



IS THE POA REVOCABLE OR IRREVOCABLE?

Most POAs are revocable—meaning you (and you alone) can change, modify, or revoke it at any time in the future. However, some contain wording to say the document can never be changed—even if you later discover your agent is exploiting or misusing your POA. ***Be sure the POA contains language that you have the right to revoke it.***

HOW DO YOU REVOKE A GENERAL (BUSINESS) POWER OF ATTORNEY?

If you ever decide to revoke or undo the POA, you should ***do so in writing.*** Once you have revoked the POA, you should then record your written Revocation at the Register of Deeds Office and should also send a copy to your former agent and banks by Certified Mail.

MAKE SURE THE ATTORNEY/PREPARER OF THE POA REPRESENTS YOU

If an attorney or other person prepares a POA for you, ***make sure he or she is acting in your best interests*** and is not representing the person who will become your agent. If they are not, be sure to seek and obtain an independent review or advice by someone who is looking out for you.

THE BEST PROTECTION AVAILABLE

The best way to protect yourself is to read and thoroughly understand any paper before signing it. Ask questions if you do not understand something. Ask questions if you feel your agent is exploiting you. ***Even if you grant POA to someone, keep track of your accounts yourself and monitor what the agent is doing on your behalf.***

If you have questions, or feel you have been or are being financially abused:

Contact the East Tennessee Area Agency on Aging and Disability at 865/691-2551,
Adult Protective Services at 888/277-8366, or your local Legal Aid provider