



Why Is Having An Effective Durable Power of Attorney So Critical?

What is Durable Power of Attorney?

A Durable Power of Attorney is a legal document that gives someone authority to manage your financial affairs during your lifetime. You may have already read about them on our Estate Planning page, so why do we dedicate an entire page to this document on our website? Because the failure to have an effective Durable Power of Attorney, or having one that complies with Florida law, is one of the biggest mistakes we see. All Durable Powers of Attorney are not created equal. It is very important for everyone to get this right, particularly someone who may need to qualify for public benefits in the future.

You must be mentally competent to sign a Durable Power of Attorney, but it will continue to be effective even if you become incapacitated in the future. In Florida, a Durable Power of Attorney is effective immediately upon signing. If you are unsure about who to appoint, you should discuss this with your attorney.

In a Durable Power of Attorney document, you are known as the Principal (aka: boss), and the person you appoint is known as your Agent. The authority of an Agent ends at the Principal's death.

Below are some frequently asked questions about a Durable Power of Attorney.

- **What is the difference between a Durable Power of Attorney and a Power of Attorney?**

A Durable Power of Attorney survives your incapacity, while a Power of Attorney does not.

- **Can the authority of the Agent in my Durable Power of Attorney only take effect if I am too sick to manage my financial affairs?**

Not in Florida. Here in the Sunshine State, a Durable Power of Attorney must be effective immediately, so choose your Agent wisely.

- **How do I choose whom to name as the Agent in my Durable Power of Attorney?**

Think about the people in your life that you would trust to manage your assets if you become unable. Keep in mind that it does not have to be a family member. The age and location of the people you consider should be a factor. It is best to select several people you trust for this role. Then decide if you want them to act alone or if they must act together.