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## Powers of Attorney: Crucial Caregiving



Get these important legal papers in place before you need them  
by Amanda Singleton, [AARP \(http://www.aarp.org\)](http://www.aarp.org), Updated December 10, 202





*What is power of attorney? Everyone 18 and older should have this document in place.*

[En español \(/espanol/recursos-para-el-cuidado/asuntos-legales-financieros/info-2019/tipos-poder-notarial.html?intcmp=AE-HLTH-TOSPA-TOGL-ES\)](#) | What comes to mind when you hear the words “power of attorney”?

An important legal document? A [license to steal](https://blog.aarp.org/thinking-policy/getting-power-of-attorney-but-make-sure-its-not-a-license-to-steal/) (<https://blog.aarp.org/thinking-policy/getting-power-of-attorney-but-make-sure-its-not-a-license-to-steal/>)? The key to successful caregiving? All of the above?

If you thought “all of the above,” you're on the right track. The power of attorney is a powerful legal document.

It can give tremendous authority to another person, including the right to access your bank accounts and to make decisions for you. And, in times of crisis or declining health, a power of attorney is the essential tool in your [caregiver's toolkit \(/caregiving/caregiving-tools/\)](#).

## Types of powers of attorney

A power of attorney names a person who can act on your behalf; this person is called your “agent” or “attorney-in-fact.” Before you create a power of attorney, you should know your options and in which ones your [home state](#) ([https://www.americanbar.org/content/dam/aba/administrative/law\\_aging/chartpoa.authenticated.pdf](https://www.americanbar.org/content/dam/aba/administrative/law_aging/chartpoa.authenticated.pdf)) allows.

**Specific powers of attorney** limit your agent to handling only certain tasks, like paying bills, selling a house, and generally on a temporary basis.

**General powers of attorney** give your agent broad authority. They can step into your shoes and handle all your legal and financial affairs.

With these documents, that authority can end at the time you become incapacitated.

**Durable powers of attorney** may be limited or give your agent broad authority to handle all your legal and [financial affairs \(/caregiving/financial-legal/info-2018/organize-financial-records.html\)](#) but your agent keeps the authority even if you become physically or mentally incapacitated. This means that your family may not have to ask for a court to intervene if you have a medical crisis or have severe cognitive decline such as late-stage dementia.

Sometimes, medical decision-making is included in a durable power of attorney for health care. This may be addressed in a separate document that is solely for health care, like a [health care surrogate \(/caregiving/financial-legal/info-2019/health-care-surrogate.html\)](#) designation.

Some states recognize "springing" durable powers of attorney, which means the agent can use it only once you are incapacitated. Some states don't, which means the day you sign a durable power of attorney, your agent can use the document.

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**Get resources and tips to help first-time caregivers with [AARP's Care Guide \(/caregiving/basics/info-2019/first-time-caregiver-tips.html\)](/caregiving/basics/info-2019/first-time-caregiver-tips.html)**

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## The risks of not planning ahead

A well-drafted power of attorney helps your caregiver help you. It can keep the gears of your life turning if you cannot.

This means everything from applying for financial assistance or a public benefit such as [Medicaid \(/health/medicare-insurance/info-2018/medicaid-dual-eligible.html\)](/health/medicare-insurance/info-2018/medicaid-dual-eligible.html) to making sure your utilities stay on and your taxes are paid. Trying to do any of those tasks without the proper document is almost impossible.

According to a [2020 Merrill Lynch report \(https://images.em.bankofamerica.com/HOST-01-2701/ML\\_Legacy\\_Study.pdf?\\_ga=2.56233263.560997365.1639077159-1120389789.1639077159\)](https://images.em.bankofamerica.com/HOST-01-2701/ML_Legacy_Study.pdf?_ga=2.56233263.560997365.1639077159-1120389789.1639077159), 43 percent of Americans age 55 and older worry that they don't have an advocate to look out for their interests as they age. Yet only a third of this age group has a durable power of attorney, a study found.

When I was my mom's caregiver, I had to help her without a power of attorney for six months. She hadn't created one before her diagnosis and was physically unable to see an attorney after.

It's an understatement to say how [stressful \(/caregiving/life-balance/info-2018/stress-management-tips.html\)](/caregiving/life-balance/info-2018/stress-management-tips.html) it was to get things accomplished and advocate for her without one.

Cancer took my mom's voice, so she couldn't vocalize her wishes in more than a hard-to-understand whisper. More times than I can count, I was asked to put her on the phone so she could authorize me to talk about insurance or an overdue bill.

It was so frustrating that I pretended to be my mom a few times, which is not legal or advisable. I also signed her hospital and facility admissions paperwork, which exposed me to being responsible for her bills.

We both feared that certain unpredictable relatives would try to take over her decision-making or [possibly exploit her \(/money/scams-fraud/info-2021/prevent-elder-financial-exploitation.html\)](/money/scams-fraud/info-2021/prevent-elder-financial-exploitation.html).

For those reasons and more, as soon as she was able, she had a durable power of attorney prepared. We both felt relieved and more secure from that day forward.

# Prepare documents early, update frequently

Today, as a caregivers' lawyer, I often hear from new clients who want me to prepare a power of attorney for their loved one with [dementia](/caregiving/life-balance/info-2019/overcoming-dementia-caregiver-stigma.html) (</caregiving/life-balance/info-2019/overcoming-dementia-caregiver-stigma.html>).

Although a dementia diagnosis alone does not prevent a person from signing legal documents, I cannot ethically let a person sign if they are not "competent." Basically, this means that they are not able to understand the implications of the document.

The only recourse if a person is not competent to sign legal documents may be a court proceeding known as a [guardianship or conservatorship](/caregiving/financial-legal/info-2019/legal-considerations-caregiving.html) (</caregiving/financial-legal/info-2019/legal-considerations-caregiving.html>). These can be expensive, time-consuming and contested by family members (</caregiving/life-balance/info-2018/siblings-competing-for-control.html>) who don't agree.

Assets can be depleted quickly, and relationships strained. The biggest risk is that you may not have a say in who will be the person the court appoints to make decisions for you.

So, please, don't delay. All adults, from the age of 18, should have a power of attorney in place.

And if you have one, consider whether now is the time to update it. If you've moved states or changed your residence, if you have property in multiple states like a vacation home or if you are a snowbird, you live in a state that requires you to renew your power of attorney occasionally, or if your power of attorney is more than a few years old in any state, it's well worth your time to speak with a qualified lawyer.

Your lawyer can also explain how to create your documents to limit possible exploitation and which additional documents complement your power of attorney.

With thoughtful planning and an understanding of your [agent's authority](#) (<https://www.consumerfinance.gov/consumer-tools/managing-someone-elses-money/pov-attorney-guides/>), a power of attorney will give you peace of mind that your wishes will be followed and your best interests protected in times of crisis.

*Editor's note: This article, originally published July 19, 2019, has been updated with more recent information and an AARP Top Tips video.*

[Amanda Singleton](/caregiving/experts/info-2019/amanda-singleton.html?intcmp=AE-CAR-BIO) (</caregiving/experts/info-2019/amanda-singleton.html?intcmp=AE-CAR-BIO>) is a recipient of CareGiving.com's national Caregiving Visionary Award and serves caregivers across their life span through her law practice. Follow her on [Twitter](#) (<https://twitter.com/singletonlegal>) and [Facebook](#) (<https://www.facebook.com/singletonlegal>).

## More Financial and Legal Help for Caregivers

- [Prepare a digital estate plan for future caregivers \(/caregiving/financial-legal/info-2019/digital-assets-planning.html\)](/caregiving/financial-legal/info-2019/digital-assets-planning.html)
- [More caregiving columns from Amanda Singleton \(https://www.aarp.org/caregiving/experts/info-2019/amanda-singleton.html\)](https://www.aarp.org/caregiving/experts/info-2019/amanda-singleton.html)
- [Discuss financial concerns with other caregivers in AARP's Online Community \(http://community.aarp.org/t5/Caregiving/Financial-Help/m-p/1815026/highlight/true#M3438\)](http://community.aarp.org/t5/Caregiving/Financial-Help/m-p/1815026/highlight/true#M3438)

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can i get a poa form from aarp

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You'll find helpful information and guides on POAs here:

<https://www.consumerfinance.gov/consumer-tools/managing-someone-elses-money/power-attorney-guides/> (<https://www.consumerfinance.gov/consumer-tools/managing-someone-elses-money/power-attorney-guides/>)

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