

## What is a power of attorney?

A power of attorney is a written document that authorizes another to act for you regarding decisions about your finances and property.

## What kind of powers of attorney are recognized in Wisconsin and Minnesota?

Wisconsin and Minnesota both recognize two forms of power of attorneys -- the **Durable Power of Attorney** and the **Springing Durable Power of Attorney**.

The **Durable Power of Attorney** authorizes another person to act for you in regard to your financial and property decisions. That person is called your **agent** in Wisconsin and your **attorney-in-fact** in Minnesota. A durable power of attorney allows the agent/attorney-in-fact to act for you as soon as the document is completed and signed by all parties, and continues to be in effect even if you become incompetent and/or incapacitated.

The **Springing Durable Power of Attorney** also authorizes another person to act for you in regard to financial and property decisions, however, it becomes effective only when you are deemed incompetent and/or incapacitated.

## Why have a power of attorney?

If you are physically disabled, granting a power of attorney may relieve you of some of the difficulties you would otherwise encounter in conducting your own transactions. If you become incompetent, a power of attorney may avoid the need for costly court proceedings to appoint a conservator or guardian.

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# DURABLE POWERS OF ATTORNEY



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### Am I required by law to have a power of attorney

No.

### Am I giving up any powers or rights by signing a power of attorney?

No. By signing a power of attorney you are not giving up any powers or rights to control your finances and property yourself. In addition to you own powers and rights, you are giving another person, your agent, broad powers to handle your finances and property.

### What happens if I do not have power of attorney?

If you do not have a power of attorney and are unable to make financial decisions and decisions regarding your property, a guardian or conservator will be appointed to handle your financial affairs and affairs with any property you own.

### Who may execute a power of attorney?

Any competent person 18 years of age or older may execute a power of attorney.

### When should I prepare a power of attorney?

Anyone over the age of 18 can prepare a power of attorney. However, most people choose to wait until they reach a mature age before preparing a power of attorney.

### How long does a power of attorney last?

A power of attorney lasts from the time it is created until your death, unless revoked or changed. You may revoke or change your directive by doing any of the following:

In **Wisconsin**:

- signing a written and dated statement expressing your intent to revoke this document.
- destroying the document
- having someone else destroy it in your presence

In **Minnesota**:

- signing a written and dated statement expressing your intent to revoke the document

In both states, it is important that if you choose to revoke or change your power of attorney, you immediately notify your agent and anyone else to whom you gave a copy of the document to immediately. If you own real property, you should also consider filing a notice of the revocation with the County Recorder or Registrar of Deeds/Titles.

### Do I have to use a specific form?

Although both Wisconsin and Minnesota have developed statutory power of attorney forms, you are not required to use a specific form for your power of attorney. In order to make the document legal, however, you must observe certain signing requirements. Both the **Wisconsin** and **Minnesota** statutory forms require a notarized signature of the principal.

### Who should I name as my power of attorney agent?

Your agent must be a competent adult at least 18 years of age. You should choose someone you trust and should fully inform that person of your financial and property preferences.

### What powers does my power of attorney agent possess?

Your agent can have broad powers to handle your finances and property. However, you are the person who will ultimately decide, when you have the document drafted, what powers you will grant your agent.

### Where is my power of attorney valid?

Your power of attorney is valid in the state where it was created. In most circumstances, it is also valid in other states as long as it complied with the laws of the state where it was prepared.

### Where should I keep my original power of attorney?

In **Wisconsin**, a *copy* of the statutory power of attorney is sufficient to conduct transactions. Therefore, you should keep the *original* document in a safe place, such as a safe deposit box. In **Minnesota**, a *copy* is generally accepted by third parties. However, because the statutory form does not state that a *copy* is as valid as the original, you may wish to prepare duplicate originals or obtain certified copies of your original power of attorney. In such cases, you should keep your *original* in a safe place, such as a safe deposit box.