

What is a Durable Power of Attorney?

1. What is a Durable Power of Attorney?

A Massachusetts Durable Power of Attorney is a legal document in which you appoint a trusted person to manage and protect your financial matters- your money, property and business affairs- if you are not able to manage your financial matters yourself. You can appoint a trusted person, called an 'Attorney-in-fact', to pay your bills, sign a contract to pay for short or long-term care, and make financial decisions on your behalf. "Durable" means your Attorney-in-fact can act even if you become incapacitated.

2. Who can complete a Durable Power of Attorney?

Every competent adult has the choice to complete a Durable Power of Attorney. An adult must be 18 years old and older; able to understand that he or she is giving another person the legal authority to manage his or her financial affairs if the adult becomes disabled or incapacitated; and under no constraint or undue influence to complete the legal document. Having a Durable of Attorney can help you avoid conservatorship if you become incapacitated and unable to make financial decisions for yourself.

3. Who can be my Attorney-in-Fact?

You can choose any adult you trust - a spouse, a family member, a friend- or a professional or business entity to serve as your Attorney-in-Fact. Your Health Care Agent, appointed in your Health Care Proxy, can also be appointed as your Attorney-in-fact.

4. How does a Durable Power of Attorney work?

You have the right to manage your money, property, and business as you like. The Durable Power of Attorney tells your Attorney-in-fact when to step in to help you (either immediately or if you become disabled or incapacitated), and lists the exact decision making authority you want to give your Attorney-in-fact to act on your behalf. Importantly, you can give your Attorney-in-fact the authority to arrange and pay for vital care if you are not able to do it yourself. At Honoring Choices MA, we consider the Durable Power of Attorney one the five MA planning documents you can include in your personal care plan.

5. What decision making authority can I give my Attorney-in-Fact?

You can give your Attorney-in-fact limited powers with authority to perform tasks, such as paying the bills, signing checks, buying or selling property, and managing your business. You can also give your Attorney-in-fact general powers with authority to manage all financial affairs on your behalf. Your Attorney-in-fact should know what's important to you in taking specific actions and making financial or business decisions.

6. Can I change my mind or cancel or revoke a Durable Power of Attorney?

Yes. As a competent adult, you can appoint a new Attorney-in-fact, change the decision making authority, and cancel or revoke the document.

7. How do I complete a Durable Power of Attorney?

Although it is not required to have an attorney, it is generally recommended that you ask an attorney to draft a Durable Power of Attorney for you. An attorney can tailor the legal document to fit your situation and offer advice on the types of specific powers you may want to include in the document. For instance, an attorney can help you provide for your long term care and safeguard your estate though your lifetime.