

Pennsylvania Power of Attorney Laws

A durable POA allows someone to help you with your financial matters if you ever become incapacitated—here's how to make one in Pennsylvania.

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If you want someone to be able to deposit your checks at your bank, file your taxes, or even sell or mortgage your home, you can create a handy document called a power of attorney. A POA is a simple document that grants specific powers to someone you trust—called an "agent" or "attorney-in-fact"—to handle certain matters for you.

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What Types of Powers of Attorney Are Available in Pennsylvania?

You can make several different types of POAs in Pennsylvania. In particular, many estate plans include two POAs:

- a financial power of attorney, which allows someone to handle your financial or business matters, and

- a health care power of attorney, which allows someone to make medical decisions on your behalf.

In most estate plans, these POAs are what are known as "durable" POAs, which means that they retain their effectiveness even after you're incapacitated. It's a good idea for most people to create these two documents, as they help plan for the unexpected.

To learn about other types of POAs, including non-durable (limited) and springing POAs, see [What Is a Power of Attorney](#). Below, learn how to create a durable financial POA that is valid in Pennsylvania.

What Are the Legal Requirements of a Financial POA in Pennsylvania?

For your POA to be valid in Pennsylvania, it must meet certain requirements.

Mental Capacity for Creating a POA

While Pennsylvania requires the person making a power of attorney to have the mental capacity to do so, neither the state's statutes or higher courts have defined exactly what kind of mental capacity is needed. However, some probate courts (called "orphans' courts" in Pennsylvania) have required that the person making a POA understand:

- the nature of the authority the person is granting
- what assets are subject to the POA, and
- the information and warnings on the first page of the POA

(DiStefano Trust, 30 Fid. Rep. 2d 1 (Phila. 2009).) If you're helping someone make a POA and you're unsure whether they have the required mental capacity, consult an estate planning attorney.

Statutory Language

In addition, Pennsylvania requires that certain notices be included in the POA. If you make your POA using a reputable software program or local attorney (see "Steps for Making a Financial Power of Attorney," below), the resulting POA should automatically incorporate the required language. You'll see it in capital letters at the beginning of the document, and you'll sign below the notices (as well as again at the end of the POA).

Witnessing and Notarizing the POA

To finalize a POA in Pennsylvania, the document must be:

- witnessed by two people who are not named as agents, and
- signed before a notary public.

In Pennsylvania, the witnesses must be over 18, and can't be someone who is signing on behalf of the person making the document, someone named to be an agent in the POA, or the notary public.

Acknowledgment Signed by Agent

In addition, Pennsylvania also requires your agent to sign an acknowledgment and attach it to the POA. This extra step helps ensure that your agent understands the responsibilities of the role. However, your agent need not do this until it becomes time actually to use the POA.

You can find sample language for this acknowledgment in Pennsylvania's statutes at [Pa. Cons. Stat. § 5601\(d\)](#).

Steps for Making a Financial Power of Attorney in Pennsylvania

1. Create the POA Using a DIY Option or an Attorney

Some private companies offer forms or templates with blanks that you can fill out to create your POA. For a more user-friendly experience, try Nolo's [WillMaker](#), which guides you through a series of questions to arrive at

a POA that meets your specific aims and is valid in your state. (You can also use WillMaker to create a will or living trust.) Or you can hire a Pennsylvania lawyer to create a POA for you. Many lawyers will include durable POAs as part of a more comprehensive estate plan alongside a will or living trust.

Whatever method you choose, the process of making the POA will include either granting your agent comprehensive powers or selecting, from a list, the specific powers you want your agent to have. For example, you might choose to grant your agent the power:

- to engage in real estate transactions
- to engage in banking and financial transactions
- to engage in retirement plan transactions
- to engage in stock, bond, and other securities transactions
- to operate a business or entity
- to receive government benefits
- to pursue tax matters
- to provide for personal and family maintenance.

In Pennsylvania, the power of attorney is durable by default (meaning it remains effective after your incapacitation) unless you explicitly state otherwise in the document.

2. Sign the POA in the Presence of a Notary Public and Two Witnesses

As mentioned above, you can't simply sign the document and call it a day. In Pennsylvania, you must notarize the POA and also have it witnessed by two people who are over 18, and who are not helping you sign the document, not named in the POA as agents, and not the notary public.

3. Store the Original POA in a Safe Place

Once you have completed the POA, store the original in a [safe place](#) that your loved ones can easily access, and let them know where to find it. (It won't do much good locked away in a safe that no one can get into.) If you become incapacitated, your agent might need the original POA to act on your behalf.

4. Give a Copy to Your Agent

You should also give a copy of the power of attorney to [your agent](#) so that your agent is familiar with the contents of the document.

5. File a Copy With the Land Records Office

If you selected "real estate transactions" as one of the powers you granted to your agent, you should also file a copy of your POA in the land records office (known as the office of the recorder of deeds in Pennsylvania) in any county where you own real estate. This will allow the land records office to recognize your agent's authority if your agent ever needs to sell, mortgage, or transfer real estate for you.

6. Consider Giving a Copy to Financial Institutions

You can also give copies of your durable financial POA to banks or other institutions that your agent might need to deal with in the future. This step might eliminate some hassles for your agent if your agent ever needs to use the POA. Banks can sometimes be finicky about accepting POAs; see [Can Banks Refuse a Power of Attorney?](#) for more details.

Who Can Be Named an Agent in Pennsylvania?

Legally speaking, you can name any competent adult to serve as your agent. But you'll want to take into account certain practical considerations, such as the person's trustworthiness and geographical location. For more on choosing agents, see [What Is a Power of Attorney](#).

Pennsylvania allows you to appoint co-agents who are authorized to act at the same time, but it's usually advisable to stick to just one agent to minimize

potential conflicts. However, naming a "successor" agent—an alternate who will become your agent if your first choice is unavailable for any reason—is always a good idea, as it creates a backup plan.

When Does My Durable Financial POA Take Effect?

Your POA is effective immediately unless it explicitly states that it takes effect at a future date.

It's possible to create a condition that must be satisfied before the POA becomes effective—such as a doctor declaring that you are incapacitated—but there are many reasons why this type of "springing" power of attorney is not usually advised.

When Does My Financial Power of Attorney End?

Any power of attorney automatically ends at your death. It also ends if:

- You [revoke](#) it. As long as you are mentally competent, you can revoke your document at any time.
- No agent is available. To reduce the likelihood of this happening, you can name a successor (alternate) agent in your document.
- A court invalidates your document. It's rare, but a court may declare your document invalid if it concludes that you were not mentally competent when you signed it, or that you were the victim of fraud or undue influence.

Additionally, in Pennsylvania, if your spouse is named as your agent in your POA, that designation automatically ends if you or your spouse files for divorce. To be clear, your ex-spouse's authority to act as your agent ends, but your POA is still intact. So if you named a successor agent, that person would become your agent instead.