

## **You Need a Good Durable Financial Power of Attorney** **By Mia Poliquin Pross, Esq.**

*Published in the Sun Journal - April 26, 2020*

A durable financial power of attorney is a legal document that names a trusted person to handle your finances if you can't do so on your own. In my elder law practice, I find that people often misunderstand this document. I also see a lot of documents that are invalid or insufficient. This is sometimes discovered when it's too late – after someone loses the capacity to sign new legal documents. Loved ones can then end up in lengthy and expensive court proceedings to try to help.

A well-drafted durable financial power of attorney can avoid problems in the future, but common misconceptions sometimes get in the way. For example, a personal representative named in a will can't handle your finances while you're alive because your will doesn't go into effect until you pass away. Similarly, a health care directive will not give your loved one the power they need to deal with finances. In addition, spouses can't automatically handle all financial matters for one another. That is why a basic estate plan typically includes three documents: a will, durable financial power of attorney, and health care power of attorney with advanced care directives. Each document has a different purpose.

Power of attorney documents are not “one size fits all” either. There are general powers that most documents include. There are also several optional powers that *must* be mentioned specifically if you want your agent to have those powers. Optional powers are very important for long term care planning purposes, and they are often overlooked. There is substantial risk to your finances and well-being if any powers are abused. There are also statutory requirements that must be met for the document to be valid. Thus, you should seek competent legal advice to explain the various powers and risks, and to draft a power of attorney document that meets your individual needs as part of your complete estate plan.

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