

Powers of Attorney: Information and Answers

[Legal Hotline for Texans - Texas Legal Services Center \(https://texaslawhelp.org/directory/legal-resource/legal-hotline-texans-texas-legal-services-center\)](https://texaslawhelp.org/directory/legal-resource/legal-hotline-texans-texas-legal-services-center) [1]

This article provides information and answers on a [power of attorney](#) in Texas, including what it does, how to end it, and what are the advantages of a power of attorney. This article was written by the [Legal Hotline for Texans at the Texas Legal Services Center. \(https://www.tlsc.org/legalhotline\)](https://www.tlsc.org/legalhotline) [2]



What is a [Power of Attorney](#)?

A [Power of Attorney](#) is a legal document that gives someone else the legal power to act on your behalf. The person appointed in the power of attorney is called the agent. The person who signs a power of attorney making someone else their agent is called the principal. A person does not have to be a lawyer to be appointed as an agent.

What are the types of powers of attorney?

Powers of attorney:

- [General power of attorney](#) – a [general power of attorney](#) gives the agent the authority to act in a broad range of matters. A [general power of attorney](#) ends if the principal becomes mentally or physically disabled or incapacitated.
- [Limited or special power of attorney](#) – a [limited or special power of attorney](#) gives the agent the authority to handle a specific matter, or for a limited period of time.
- [Durable power of attorney](#) – a [durable power of attorney](#) is a [general power of attorney](#), but continues if the principal becomes mentally or physically disabled or incapacitated.
- [Springing power of attorney](#) – a [springing power of attorney](#) gives the agent authority only if and when the principal becomes disabled or incapacitated.
- [Medical power of attorney](#) – a [medical power of attorney](#) gives the agent the authority to make medical treatment decisions for you if you come

mentally or physically unable to make your own decisions.

ESTATE PLANNING KIT - GUIDED FORM (HTTPS://TEXASLAWHELP.ORG/GL

[3]



What are the legal requirements for executing a power of attorney?

Below is a list of requirements for executing a power of attorney:

- The power of attorney must be signed before a notary public;
- You must be 18 years of age or older;
- You must be of sound mind and know what you are doing when you sign the power of attorney; and
- If you are entrusting your agent to conduct real estate transactions for you, the power of attorney document has to be filed with the clerk of each county where the property is located.

Can my agent tell me what to do?

No. The power of attorney only allows your agent to do the things you want done for you. It does not limit your ability to do things for yourself.

Does the power of attorney end?

Yes. There are five instances when a power of attorney ends: it ends if it has an ending date; it ends when you become incapacitated if the power of attorney is not a durable one; it ends when you revoke it; it ends when a guardian of the estate is appointed for you; or it ends when you die.

What is a durable power of attorney?

A durable power of attorney does not end if you are incapacitated. A durable power of attorney and a general durable power of attorney are the same thing; the key word is *durable*. A durable power of attorney can be for business and financial decisions. There are certain requirements:

- It must be in writing,

- It must name the person that you want to be your agent, and
- It must say how the power of attorney is to be used.
 - For example:
 - If you want a financial durable power of attorney to continue even if you become disabled, it must say:
 - *“This power of attorney is not affected by subsequent disability or incapacity of the principal.”*
 - If you want a financial durable power of attorney to start if you become disabled, it should say:
 - *“This power of attorney becomes effective on the disability or incapacity of the principal.”*
- It must be signed and notarized.



Are there advantages of a general durable power of attorney?

With a general durable power of attorney, you can say who you want to take care of everything if you cannot take care of your own affairs. If you have a durable power of attorney, the court may not have to name a guardian for you if you become incapacitated. Be warned, however, that there is no law that requires a third party to accept a power of attorney.

What happens if I have a durable power of attorney and the court appoints a guardian?

Your general durable power of attorney ends if the court names a guardian of your estate. If the court names a temporary guardian, your general durable power of attorney may be suspended.

Can I stop a power of attorney?

You have the right to end your power of attorney any time. This is called revoking a power of attorney. If the power of attorney is for a specific amount of time, it will end automatically. You must tell your agent that you are revoking the power of attorney. You must also tell the people working with the agent that you revoked the power of attorney. It is best to prepare a sworn written statement of your revocation. You must have the mental ability to revoke a power of attorney.

That is, you must be able to understand what you are doing.

[Click here for a sample form to revoke a power of attorney.](https://texaslawhelp.org/form/sample-revocation-power-attorney)

<https://texaslawhelp.org/form/sample-revocation-power-attorney> [4]

REVOCATION OF POWER OF ATTORNEY - GUIDED FORM (HTTPS://TEXAS

[5]



What is a statutory durable power of attorney?

In Texas, this is a standard form provided in the Texas Probate Code. This form gives your agent very broad powers to act in your name. Use it carefully and with caution. Before signing a statutory durable power of attorney, you should ask a lawyer to help you understand the powers that you are giving to the person you have selected.

Who should I choose to be my agent?

A person you would trust with your life. Choose this person very carefully. That person can act in your name, as if you were there. In most cases, you are responsible for anything your agent does in your name. Choose someone who is honest and trustworthy. This is especially important if you are signing a general durable power of attorney. Because of the powers that you give to another person, it is highly recommended that you talk to a lawyer before signing any power of attorney.

You should especially speak to a lawyer to prepare a Durable General Power of Attorney. If you are low-income, we may be able to refer you to a lawyer who can do this for free. If you are older and do not live in an area where these services are free, you can pay a reduced fee.

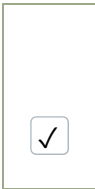
Can I give someone power of attorney to sell my property?

Yes. This is a special power of attorney that only allows your agent to sign a deed for the property. This kind of power of attorney must include a legal description of the property that you want to sell. You must record the power of

attorney in the deed records of the county where the property is located. If you wish, you can add an expiration date to the power of attorney.

What if my spouse is my agent and we get divorced?

If your spouse is your agent, the power of attorney ends the day your divorce is granted. If you do not want your spouse's power of attorney to end when you divorce, make sure to write that in the durable power of attorney. You may also execute a new one after the date of the divorce naming your ex-spouse as your agent.



Do businesses have to accept my power of attorney?

A business presented with a durable power of attorney (POA) must:

1. within **10 days** accept the power of attorney or reject the POA and provide a written explanation of the reason for the rejection;
2. within **10 days** request that the agent sign a certificate;
3. within **10 days** request that the agent provide an opinion of counsel; or
4. within **5 days** request an English translation if the power of attorney is in another language.

If a certificate or opinion is requested, the POA must be accepted or rejected within 7 business days after receipt of the requested document.

There are 11 statutory reasons a third-party can reject a power of attorney. The following are some of the reasons a third-party can reject a power of attorney:

1. The third-party has good faith belief or knowledge that the POA is no longer valid,
2. The agent is exceeding his or her scope of authority,
3. Elder financial abuse is suspected
4. The principal or agent is suspected of criminal activity,
5. The transaction would violate Texas or federal law, regulation, or ordinance, or
6. There is more than one agent and the third-party is receiving conflicting direction.

For a complete list of the statutory reasons a third-party can reject a power of

attorney see **Texas Estates Code 751.206 Grounds for Refusing Acceptance** (<https://statutes.capitol.texas.gov/Docs/ES/htm/ES.751.htm>) [6]. If you believe your power of attorney is being wrongly denied, please speak with an attorney about your legal options.



For more information...

Legal Hotline for Texans (<https://www.tlsc.org/legalhotline>) [2]: (800) 622-2520 or (512) 477-3950

Call our attorney-staffed legal hotline. Advice is free for Texans 60 and over or for anyone receiving Medicare.

Click the link below for a **Sample Revocation of Power of Attorney form**.

[CLICK HERE \(HTTPS://TEXASLAWHELP.ORG/FORM/SAMPLE-REVOCATION](https://texaslawhelp.org/form/sample-revocation)
[4]

Or click below for an interactive guided form.

[REVOCATION OF POWER OF ATTORNEY - GUIDED FORM \(HTTPS://TEXAS](https://texaslawhelp.org/form/interactive-revocation-power-attorney)
[5]

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[5] <https://texaslawhelp.org/guided-form/interactive-revocation-power-attorney-form>

[6] <https://statutes.capitol.texas.gov/Docs/ES/htm/ES.751.htm>