Frequently Asked Questions:

Q: As an agent, do I receive compensation for my services?

The agent or attorney-in-fact may receive reasonable compensation for his or her services if specified in the power of attorney.

Q: As an agent, can I be liable for any damage or loss to the principal?

Yes. A person given authority under a power of attorney may be liable for any damage or loss to the principal as well as for breaching any fiduciary duty. However, the principal may exonerate the attorney-in-fact of any liability as long as the actions committed by the agent were not done in bad faith.

Q: What are the requirements to execute a power of attorney?

A power of attorney must be both signed and dated voluntarily by the principal or signed by a notary public on the principal’s behalf. The power of attorney must also be signed by two witnesses, neither of whom are attorney-in-fact.

Q: Do I need to file a power of attorney with the court?

No, a power of attorney is a private designation of authority. This means you do not need to file it with the court.

Because a power of attorney does not need to be filed, both the principal and agent should keep an original in their possession.

Best Practices:

Showing your power of attorney:

As an agent, you typically need to provide proof of your authority to make decisions on behalf of the principal. However, a third party such as a bank or hospital may be reluctant to accept a power of attorney as authority.

To safeguard against this, the principal can first present the document to these parties to make sure they will acknowledge the agent’s authority in the future.

The third party may also keep a copy of the power of attorney on file, in which case the agent will not need to show it every time he or she visits.

Resources:

For more information regarding power of attorneys, please visit: Michigan Compiled Laws 700.5501; 700.5503(1)
http://power-of-attorney.us/law/michigan-uniform-power-of-attorney-act

For more information regarding patient advocates, please visit: Michigan Compiled Laws 700.5506
www.michbar.org/probate/pdfs/patientadvocate.pdf

Ingham County Probate Court
Veterans Memorial Courthouse
313 W. Kalamazoo Street
Lansing, MI 48933
(517) 483-6300
http://pr.ingham.org

A Quick Reference Guide To Powers of Attorney

What is a Power of Attorney?
A power of attorney is the legal authority to act on someone else’s behalf. The individual who is granted this authority is called an agent or attorney-in-fact for the grantor. It is granted through a written document where the principal or grantor must agree and sign to the terms stated within.

Why Would I Need a Power of Attorney?

Generally, you need a power of attorney when you want someone to act on your behalf in a specific matter. The extent of power granted to this individual is entirely up to you, and can be limited to the following circumstances:

Finances. You may consider appointing a financial power of attorney when you need someone else to conduct business for you.

Health Care. In the event that you are unable to make or communicate medical decisions regarding your care, a health care power of attorney grants the authority to do so.

Child Care. If your child is in the care of another for a certain period of time, you might consider granting this person legal authority to make decisions on your behalf. This is most commonly done for emergency medical situations.

What Are My Obligations as Attorney-in-Fact?

An agent has the authority to make certain decisions for someone who is for some reason unable to make those decisions.

Your responsibilities include:

- Making decisions regarding the principal’s legal, medical, or financial situation
- Maintaining records of all actions made on behalf of the principal including receipts, reimbursements, and disinvestments
- Taking reasonable steps to follow the instructions of the principal
- Keeping the principal informed of any actions upon his or her request
- Providing an accounting to the principal upon his or her request

Limitations of a power of attorney:

- A third party who has been appointed as the principal’s conservator has the power to revoke or amend a financial power of attorney.
- An agent is accountable to the principal’s conservator or fiduciary.

When Does a Power of Attorney Terminate?

A power of attorney terminates when one of the following occurs:

(a) The principal or agent dies
(b) The principal becomes incapacitated, if the power of attorney is not durable
(c) The principal revokes the agent’s power
(d) The agent is incapacitated or resigns
(e) The purpose is accomplished
(f) A court order terminates the authority

Types of Powers of Attorney

There are five main types of powers of attorney:

General Power of Attorney – A power of attorney that authorizes an agent to transact business for the grantor.

Durable Power of Attorney – A power of attorney that remains in effect even after the grantor becomes incapacitated.

Irrevocable Power of Attorney – A power of attorney that the grantor cannot revoke.

Special Power of Attorney – A power of attorney that limits the agent’s authority to handle only a specific matter.

Springing Power of Attorney – A power of attorney that becomes effective only at a specific time, such as upon some future occurrence or event.

What is a Patient Advocate?

A patient advocate designation is simply a health care power of attorney. It is the appointment of an individual to exercise authority over a patient’s medical decisions. This “patient advocate” can then exercise power concerning the patient’s care, custody, and medical or mental health treatment decisions.

A patient advocate’s authority is exercisable only when the patient becomes incapacitated or unable to participate in medical decisions.