

Who's the Boss:

A practical guide for professionals
interacting with Powers of Attorney

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What is a Power of Attorney?

A “**PRINCIPAL**” assigns an “**AGENT**”

with **legal authority** to make decisions and act

on behalf of the “**PRINCIPAL.**”

****An AGENT cannot act contrary to the wishes of the
PRINCIPAL****

2 Different Types

Power of Attorney for Health

- The Health Agent:
 - Make medical decisions
 - Interact with Doctor's and Nurses
 - Make end-of-life decisions
 - Dispose of the deceased remain

Power of Attorney for Finance

- The Financial Agent:
 - Sign checks
 - Interact with banks and insurance companies

A "Durable" Power of Attorney means that the document continues to be effective even upon the principal's mental incapacity.

Mental Capacity

- A Power of Attorney must be completed when the **PRINCIPAL** has mental capacity.

Levels of Mental Capacity

Full Mental Capacity

No Mental Capacity

Diminished or Limited Mental Capacity

When are Powers of Attorney useful?

- Help manage financial decisions
- Help manage medical decisions
- Help manage day-to-day activities

- When skilled nursing home care is required and Medi-Cal benefits are sought.
 - **All Powers of Attorney are not created equal. Elder Law attorneys have special provisions to help clients protect assets when nursing home care is required.**

When can you rely on a Power of Attorney

See handout – Probate Code Section 4303

- Has the original document been shown to you?
- Is it signed and dated?
- Is it notarized or witnessed by two people?
- You must have a **good faith** belief that the document is valid.

Is it Springing or Immediate?

- A **Springing** Power of Attorney requires the Principal to become incapacitated, as determined by a doctor, before the Agent has any authority.
- An **Immediate** Power of Attorney gives authority to the Agent immediately. No determination of incapacity needs to be made.

Reviewing a Power of Attorney

See Uniform Statutory Form Power of Attorney
(handout)

Each of the letters specifies a long list of actions that the **PRINCIPAL** authorizes the **AGENT** to perform.

See Probate Code Section 4460 for a description of what is allowed under Section J, Personal and Family Maintenance (handout).

Question and Answer

Thank You!

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