

A Power of Attorney, or “Mandate”, is a written document whereby one person (the “Principal”) gives another person (the “Agent”) the authority to act in his or her place, as if the Agent were the Principal. Powers of Attorney can usually be revoked at any time, but are all “Durable” (meaning that they survive the incapacity of the Principal) by law in Louisiana.

Powers of Attorney can be effective either immediately when signed or only after certain conditions are met (e.g., when the Principal is declared incapacitated by to physicians). Clients should be aware that when using a Power of Attorney with delayed effectiveness, it may be difficult to activate the document in time to exercise the required authority. In all cases, a Power of Attorney ceases with the death of the Principal.

Whether of immediate or deferred effectiveness, it is important to understand the gravity of a Power of Attorney. The designated Agent may act for the Principal as authorized without the Principal’s prior knowledge or consent, so the choice of Agent is critical and there should be a clear understanding between the Principal and the Agent of how the Principal desire the Agent to act in fulfilling his or her duties.

Powers of Attorney can be an invaluable part of your estate plan and prevent many difficulties and expenses.

For more information please schedule an appointment to discuss your needs and options.

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## What are Powers of Attorney?

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## General Power of Attorney

A General Power of Attorney (GPOA) is used to allow the Agent to act for the Principal in managing his or her assets. Typically, the Agent under a GPOA has the full authority to manage all of the property of the Principal, for example :

### Buying and selling assets.

- Managing businesses.
- Mortgaging or encumbering assets.
- Managing stocks.
- Buying life insurance.
- Supporting family members.
- Making gifts.
- Accessing bank and investment accounts.
- Paying bills.
- Lending money or other property.
- Leasing property, including minerals.
- Pay and handle taxes.

GPOAs are not usually recorded with the Clerk of Court unless used to affect immovable property. While a GPOA can generally be revoked at any time, a recorded GPOA can be revoked only by recording the revocation.

## Health Care Power of Attorney

A Health Care Power of Attorney (HCPOA) is used to make health care decisions when the

Principal is unable to do so, up to and including end of life decisions. Some examples of powers given to the agent are:

- Access to medical records.
- Hiring or dismissing physicians.
- Approving medications.
- Commitment to hospitals or other facilities, or discharge from same.
- Control visitation.
- Incur debt for health care.
- Make anatomical gifts.
- Make decisions concerning use or removal of life support or life sustaining equipment.

## Limited Powers of Attorney

Powers of Attorney can also be limited to certain powers or acts which the Principal will be unable or does not wish to do for himself or herself. For example:

- Child Care Powers of Attorney.
- Authority to sell specific property.
- Authority over affairs for a defined period.
- Authority to act in a business deal.
- Access to a particular account.

JOSEPH M. PLACER JR. has practiced law for over 18 years specializing in tax and estate planning matters, and is a frequent lecturer in these areas at attorney continuing education seminars for the National Business Institute.

In addition to estate planning and administration, Mr. Placer handles business and non-profit formation, operation, mergers and acquisitions and dissolutions.

He has been certified by the Louisiana State Bar Association's Board of Legal Specialization as a Tax Law Specialist as well as an Estate Planning and Administration Specialist, and currently serves on the Tax Committee of the Louisiana Board of Legal Specialization.

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