

# UNDERSTANDING THE MANY POWERS OF ATTORNEY IN OHIO

*"One of the more frustrating aspects for some people – and part of the reason so many of us delay estate planning – is the overwhelming number of legal documents we hear are important."*



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One neighbor tells us you have to have a specific kind of trust while another friend tells us we must include a durable power of attorney and yet still our brother tells us to drop the “durable” part of the power of attorney. It’s overwhelming, but it’s still important and more than that, it’s much easier once you understand a few of the basics, especially when it comes to powers of attorney.

In this paper, we delve into a few of the more popular power of attorney options, what their differences are and how it unfolds in an estate plan.

## What is a Power of Attorney?



In estate planning, a power of attorney is a legal document that names and authorizes an agent to speak and act on your behalf. The agent acts according to what he or she believes the principal's (you) wishes would be should the principal be unable to speak for himself.

### **General and Special Powers of Attorney**

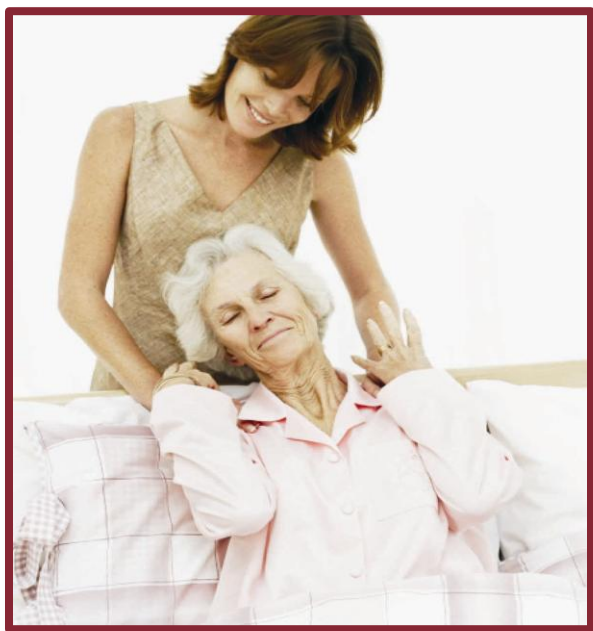
In simple terms, a general power of attorney allows you to give broad authorizations to the agent you've chosen. This might include any decisions related to your medical care, financial decisions or legal decisions.

The special power of attorney is more specific. Often, in these instances, there may be more than one agent named to handle specific tasks or decision making processes.

Your husband may travel internationally and because of that, you may name your sibling, a parent, any of your husband's relatives or even close friends to serve as your medical power of attorney, just because they live nearer and you trust them as much as you do your spouse.

On the other hand, you and your husband may name one another on your financial powers of attorney, even if he does travel often since those aren't typically the types of decisions the need to be made in the moment.

### The Durable Part of a Durable Power of Attorney



These are sometimes referred to as enduring powers of attorney and simply stated, it allows the power of attorney to remain in effect if you're incapacitated.

A durable power of attorney does not mean, however, that it continues after your death. Those legal documents become void as your other estate planning documents will then be in effect, such as your last will and testament.

### Springing Power of Attorney

Unlike the durable power of attorney, a springing power of attorney goes into effect only if you're incapacitated and they are in force until you are able to reclaim your power.

### **Medical Power of Attorney**

These legal documents are specifically used if you become ill or are injured. Your agent is the person you choose to make medical decisions on your behalf. Often, it's a spouse, but in many families, it might be a parent or adult child.

### **Financial Power of Attorney**

These powers of attorney allow you to name someone to make financial decisions on your behalf. This might include paying taxes, running your business if you're unable to do so, cover your mortgage (and yes, even sell it if that person wanted to) and sometimes, take out loans in your name.

This is a lot of power, of course, so be sure whomever you choose is one who will honor your wishes and respect the faith you've put into him.

Regardless of whom you choose, or how many agents you choose, remember that they must be at least 18. You can include provisions addressing any abuse of the power of attorney, though as estate planning attorneys, we advise our clients to select someone they have known and who has high ethical and moral standards. Nothing is foolproof of course, but the more confidence we have in our agents, the better we sleep at night.

Finally, and this is a good advice for anything related to legal documents: avoid the do it yourself trap. State laws vary and federal laws change. Because estate planning is about the details, trust those efforts to a qualified estate planning lawyer. The last thing you want is for your family and loved ones to face the repercussions of a small, overlooked detail.

To learn more about estate planning and which powers of attorney would best suit your specific needs, contact The Zimmer Law Firm today. Our estate planning lawyers stand ready to provide guidance so that your estate planning efforts are complete and thorough.

## About the Author



### Barry Zimmer

Barry H. Zimmer founded THE ZIMMER LAW FIRM in June 1993, to practice in the areas of estate planning, estate administration, and business succession planning. His goal was and continues to be helping clients understand and de-mystify the often confusing world of estate planning in an ever-changing society, and to implement effective estate planning with minimal effort and time investment. The firm works from the belief that planning should always be driven by purpose. As a result, there are no "canned" or pre-set planning solutions. Instead, Zimmer helps clients identify their goals first and then builds estate and business plans based on that understanding.

Barry has been in private practice since receiving his law degree from the University of Cincinnati College of Law in 1979. He earned his Bachelor of Arts Degree from U.C. with Honors, Magna Cum Laude and Phi Beta Kappa, in 1976. He was profiled in the 1990-1991 edition of Who's Who in American Law for contribution to the betterment of contemporary society, and has lectured numerous times on legal topics, and authored several articles and Special Reports on estate planning. He is a former guest columnist on Simply Money, on 91.7 FM, WVXU. He makes occasional guest appearances on radio about estate planning topics, and has been quoted in newspaper articles and columns on estate planning matters.

In Mr. Zimmer's perspective, excellence in implementing trust-based estate plans is but one aspect of his responsibility to clients. Providing reliable guidance and service to families of clients who pass away is just as critical as sound planning at the front end. The firm is very active in settling trusts of all complexity and sizes, and handling probate cases and guardianship proceedings. Zimmer and his staff have successfully handled hundreds of trust estate cases, and are experienced in settling and distributing a wide variety of estate assets to heirs.

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