



Sheriff
Kevin F. Coppinger



*Seniors & Law Enforcement
Together*



Paul F. Tucker
District Attorney

DURABLE POWER OF ATTORNEY

- **What is a power of attorney?**

A power of attorney grants to your “attorney-in-fact” the legal right to act on your behalf in financial and business matters. The attorney-in-fact steps into your shoes and is obligated to act in your best interest, and for your benefit.

- **Why should I have a Durable Power of Attorney?**

A Durable Power of Attorney will avoid the unnecessary court action of choosing a guardian for you if you become incapacitated and cannot make your own decisions.

- **What does durable mean?**

The term durable means that the Durable Power of Attorney endures when/if you become disabled.

- **When does it take effect?**

As soon as it is signed by you. However, a “springing” power of attorney takes effect only when conditions in the document are met. The usual requirement is that one or more physicians certify in writing that you are incapable of handling your affairs.

- **Do you give up your rights?**

No. Your attorney-in-fact has the right to act with you, or for you when you cannot act for yourself.

- **Can I change my mind?**

Absolutely. You may revoke this power at any time. Merely notify your attorney-in-fact in writing. When the letter is received, he or she can no longer act under the power of attorney.

- **Can an attorney-in-fact be liable for his/her acts?**

Only if he/she knowingly acts improperly or with gross negligence.



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- **Can I pay my attorney-in-fact?**

Yes. Normally, a family member acts as your attorney-in-fact and does not expect to be paid. However, he/she is entitled to reasonable compensation. Once you have decided on the fee, put your arrangements in writing.

- **Can I have more than one attorney-in-fact?**

Yes. Depending on how the power of attorney is written two (2) or more attorneys-in-fact can be permitted to act independently or required to act together.

- **What records should my attorney-in-fact keep?**

The attorney-in-fact should keep detailed records of their actions on your behalf and make sure that he/she does not co-mingle his/her money with yours.

- **Can I add a relative's name to my bank accounts instead of getting a POA?**

It's quick and easy to add another name to your account so that person can handle your money if you can't. You just sign some forms at the bank. If you don't have any other money or property, a joint bank account may work well for you. But there are risks.

The law says that both people on a joint bank account own the money. This means that the other person does not need your permission to withdraw it. Sadly, some co-owners abuse the trust placed in them and take all the money.

By contrast, an agent would not become a co-owner of your money when you sign a POA. Instead, your agent has a legal duty to use the money for you. And, if you go to a lawyer who does "elder law", they can write a POA for you that limits the agent's power. This gives you even more legal protection.