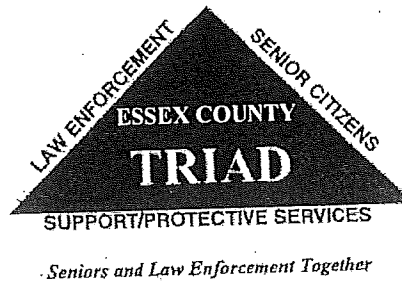




Frank G. Cousins Jr.
Sheriff



Jonathan W. Blodgett
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.

▪ **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.

**Captain Jason R. Ebacher, Esq.
Essex County TRIAD Director
Essex County Sheriff's Department
20 Manning Avenue
Middleton, Massachusetts 01949
(978) 750-1900 x.3322
jebacher@eccf.com**

GENERAL DURABLE POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS that I, _____ of _____, County of _____, State of _____, do hereby make, constitute and appoint _____ of _____, County of _____, State of _____, my true and lawful attorney for me and in my name, place and stead, generally to act as my agent or attorney in fact in relation to all matters in which I may be interested or concerned, not including matters about which I have authorized my Health Care Agent to make decisions, and as such to do all acts and things and to execute all instruments as fully and effectually in all respects as I myself could do if personally present, excepting only such acts and things as the law of the place where they are to be done (including the conflicts of law rules) or their nature would make impossible, it being my intention, regardless of the mention hereafter of any powers which may be specifically included in this general power, to make this a full, complete and general power of attorney. This power of attorney shall not be affected by my subsequent disability or incapacity.

I give unto my said attorney in fact full authority and power to do whatsoever is requisite and necessary to be done in the foregoing, as fully as I could if personally present, with full power of substitution, hereby ratifying and confirming all that my said attorney or his substitute shall lawfully do, or cause to be done by virtue hereof.

It is my specific intent that the attorney appointed under this power take whatever actions he may deem necessary or desirable to provide for my wellbeing, including without limitation my housing. I also include in the aforesaid general power, without in any way limiting its generality, the power to exercise general control and supervision over all my property, both real and personal, wherever situated; to collect all dividends, interest, rents and other income; and to deposit and withdraw monies in any accounts at any bank or trust company.

I covenant for myself, my heirs, executors, and assigns to hold said attorney harmless from any liability for any acts, otherwise proper, performed under this power after my death or other incapacity may have revoked it, so long as such acts are performed by said attorney in good faith and in the belief that this power is still in effect and my said attorney shall not be deemed to have acted in bad faith merely because of doubts raised by unconfirmed reports of my death or other incapacity.

Specifically, and without in any way limiting the generality of the foregoing, I give my said attorney the authority:

- To transfer, convey and deliver any and all of my property, real and personal, and to do all things necessary or convenient to accomplish the same, including without limitation the power to sign, seal, execute and deliver deeds, bills of sale, and stock powers;
- To receive, endorse, collect, negotiate and deposit checks payable to my order, including Social Security checks and other checks drawn on the Treasurer of the United States, and

to give full discharge for the same, and to draw checks and withdrawal orders on any checking or savings account or certificate standing in my name;

- To collect any and all claims and demands of every nature and description which I may now or hereafter have and to prosecute and defend any lawsuits involving me or my property and to adjust by compromise or arbitration any claims in my favor or against me;
- To execute and file any and all income and other tax returns and declarations of estimated tax required to be filed by me, to receive any tax refund due me, to receive any communications with respect to any tax, and to appear for me and represent me before the United States Treasury Department and any state or municipal or other agency in connection with any matter involving federal, state or local taxes;
- To enter any safe deposit box standing in my name alone or jointly with any other person, to remove any or all of the contents thereof, and to close any such box;
- To assign or surrender any life insurance policies I may own;
- To make charitable gifts on my behalf; and
- To take any other actions which my said attorney may, in her sole discretion, deem necessary or appropriate for the management of my financial affairs or for the financial well-being of me or my family.

I hereby give my said attorney-in-fact full authority and power to do everything whatsoever requisite or necessary to accomplish the foregoing, as fully as I could or might do if personally present, and ratify and confirm all that said attorneys-in-fact shall lawfully do by virtue hereof, it being my intention to make this power as general and complete as possible.

Wherever in the above document the pronoun "he" or "his" is used it shall apply to the feminine gender where appropriate.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this _____
day of _____, 200_.

COMMONWEALTH OF MASSACHUSETTS

County of _____, ss.

On this _____ day of _____, 200_, before me, _____, the
undersigned notary public, personally appeared _____

(name of document signer), proved to me though satisfactory evidence of identification, which
was _____, to be the person whose name was
signed on the preceding attached document in my presence.

Official Signature of Notary Public

Printed Name of Notary

My Commission Expires: _____