



Powers of Attorney

- Power of Attorney is a legal document that allows you to appoint another person to act on your behalf in legal, financial, medical and lifestyle matters
- Powers of Attorney give you choice and control by allowing you to appoint others to help you when you need it most

This information sheet outlines the financial, legal, medical and personal considerations of selecting a Power of Attorney.

What is a Power of Attorney?

A Power of Attorney is a legal document that allows you (the donor) to appoint another person (the 'Attorney', or 'Medical Agent') to act on your behalf in legal, financial, medical and lifestyle matters.

By appointing a Power of Attorney you're not giving away your rights. You retain your right to act while you're able to.

Why create a Power of Attorney?

Consider the following:

- A Will deals with the administration and distribution of your estate after death, but what if you need someone to assist you to make decisions during your lifetime?
- What if you have an accident, an illness or other trauma that incapacitates you?
- How do you ensure that your legal, financial, medical and day-to-day matters are managed if you can't do them for yourself?

A Power of Attorney allows you to appoint others to help you when you need it most.

Types of Powers of Attorney

In Victoria there are three different Powers of Attorney:

1. Enduring Power of Attorney
2. Medical Enduring Power of Attorney
3. Supportive Attorney

Enduring Power of Attorney

An Enduring Power of Attorney is a document that appoints another person to make legal, financial and personal decisions on your behalf. Unless you specifically limit the Attorney's powers the authority granted to the Attorney will be wide.

The kinds of decisions authorised include:

- the sale and purchase of real estate and other assets
- transactions on your bank accounts including withdrawals and deposits
- the payment of bills and other liabilities
- liaising with professional advisers
- health care matters including consent to medical treatment and access to support services, and where and with whom you live. An Enduring Power of Attorney cannot refuse medical treatment on your behalf.

The authority given to an Attorney continues even after you have lost capacity.

By appointing a Power of Attorney you're not giving away your rights. You retain your right to act while you're able to.

Things to think about when making an Enduring Power of Attorney:

- Who to appoint. It should be someone you trust completely.
- How many attorneys you want to appoint (you can nominate more than one).
- If you're appointing multiple attorneys can they act separately, or must they always act jointly?

- When does their authority start? Does it start as soon as you sign the document or at a later stage (such as when you lose capacity)?
- Do you want to limit their authority or are you happy for them to do whatever they need to do for your benefit?
- Do you want your attorney to benefit from their position (allowing a potential conflict)?
- Is your attorney permitted to benefit others (eg your dependants)?
- What other limitations or conditions do you want to impose?

Medical Enduring Power of Attorney

A Medical Enduring Power of Attorney is appointed to make medical decisions on your behalf.

The areas covered by the Medical Enduring Power of Attorney include the following:

- consent to medical or dental treatment; and
- whether to refuse medical treatment.

Things to think about when making a Medical Enduring Power of Attorney:

- Who to appoint. It has to be someone you trust completely.
- Whether you want to appoint an alternate medical agent.
- What (if any) instructions you want to prepare for your medical agent.

Your medical agent can only act if you have lost capacity and cannot act for yourself.

Supportive Attorney

You can appoint a Supportive Attorney to do the following:

- access or provide information about you to organisations that you need to deal with (financial institutions, hospitals and other service providers).
- communicate on your behalf with these organisations.
- follow through decisions that you've made but can't carry out for yourself.

The Supportive Attorney can act in matters about personal and financial affairs, for example:

- doing your banking
- paying bills (utility bills, taxes)
- accessing information for you
- health care issues and access to support services
- other lifestyle decisions, and
- entering into a residential tenancy agreement.

A Supportive Attorney cannot carry out significant financial transactions.

You can also appoint an alternate Supportive Attorney.

The authority given to a Supportive Attorney ceases when you lose capacity. If you want another person to continue making decisions when you've lost capacity you need to prepare an Enduring Power of Attorney.

Where to get help

- Your doctor
- Legal adviser
- Musculoskeletal Australia
MSK Help Line: 1800 263 265

How we can help

Call our MSK Help Line and speak to our nurses. Phone 1800 263 265 or email helpline@msk.org.au.

We can help you find out more about:

- arthritis and musculoskeletal conditions
- ways to live well with these conditions
- managing your pain
- upcoming webinars, seminars and other events.

More to explore

- Office of the Public Advocate
www.publicadvocate.vic.gov.au/power-of-attorney

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