



Will Your Power of Attorney Do What It's Supposed to Do?

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A power of attorney (POA) is a simple, yet highly effective, legal document that enables the person you name as your "agent," or "attorney in fact," to handle most of your financial affairs. As long as the POA is "durable," your agent can act on your behalf even if you become mentally incapacitated.

But signing a POA doesn't mean that you have all your bases covered. You may need to take additional steps now so that all your wishes can be carried out when you cannot speak for yourself.

PREPRINTED FORMS

In many states, stationery and office-supply stores carry preprinted power of attorney forms that you can complete. These forms usually comply with state law and are legally binding as long as you execute them properly. But these forms may not provide all of the powers you want your agent to have in order to act on your behalf.

To be sure that your agent will be able to perform these additional powers, get an attorney to draw up a customized POA that reflects your wishes. A customized POA generally costs about \$50 to \$100.

Here are some key provisions that preprinted forms may not

cover but that you want your agent to have—just in case...

• **Broad gift-giving powers.** A preprinted form may allow your agent to make gifts, but this power usually is limited.

Example: In New York, the preprinted form entitles an agent to make gifts only up to \$10,000 per person and only to a limited class of individuals—even though the federal annual gift tax exclusion is now up to \$11,000 per person in 2004 and 2005 and you may want to make gifts to others. Or you may wish to empower your agent to fund qualified tuition plans for your children or grandchildren to the fullest extent allowed. Again, these gifts may not be authorized by a preprinted form.

Important: Broad gift-giving authority is essential for both estate and Medicaid planning. You might not think gift planning is necessary today, but it could become important tomorrow, which is when the form will be needed.

• **Retirement plans.** A preprinted form may not permit an agent to make key decisions regarding

Bottom Line/Tomorrow interviewed Robert M. Freedman, Esq., partner, Freedman, Fish & Grimaldi, LLP, elder law attorney, 521 Fifth Ave., New York City 10175. Mr. Freedman is former chairman of the Elder Law Section of the New York State Bar Association and a founder and fellow of the National Academy of Elder Law Attorneys.

