



THE LAW OFFICES OF  
**HOYT & BRYAN, LLC**  
FAMILY WEALTH & LEGACY COUNSELLORS

MARGARET "PEGGY" R. HOYT, J.D., M.B.A., B.C.S. ††\*  
RANDY C. BRYAN, J.D., B.C.S. ††  
SARAH S. AUMILLER, J.D.

‡ BOARD CERTIFIED IN WILLS, TRUSTS & ESTATES  
† BOARD CERTIFIED IN ELDER LAW  
\*CERTIFIED LEGACY ADVISOR™

## The Importance of a Comprehensive Power of Attorney

There are many benefits of a detailed and comprehensive power of attorney. Unfortunately, many powers of attorney (POA) are very general and can actually cause more problems than they solve. This can especially be true here in Florida where, depending on the execution date, the POA may not even be legally effective.

But first, what is a power of attorney? The agent under a power of attorney is sometimes also known as an "attorney-in-fact." However, because of the confusion this term can cause, Florida statutes now calls the person designated to receive duties under the power of attorney as the "agent." A comprehensive power of attorney includes a grant of power for the agent to represent and advocate for the individual (the principal) about financial decision making. It allows the agent to stand in the principal's shoes and act on his or her behalf.

So, what are the benefits of a comprehensive power of attorney? While there are many, our top five are as follows:

1. Provides the ability to choose who will make decisions for you rather than having the court decide.

If someone has a signed power of attorney and later becomes incapacitated and unable to make decisions, the agent named can step into the shoes of the incapacitated person and make important financial and legal decisions. Without a power of attorney a guardianship may need to be established. A guardianship is something to avoid as it is a very expensive, time consuming and public process.

2. Avoids the necessity of a guardianship.

Someone who does not have a comprehensive power of attorney at the time they become incapacitated would need a guardianship. In the guardianship process the court will choose who is appointed to manage the financial and/or health affairs of the incapacitated person and the court will continue to control the actions of the guardian as long as the incapacitated person is alive or incapacitated. A guardianship is not only a costly, time consuming and public process but further, the incapacitated person has no input on who will be appointed to serve on their behalf.

3. Provides family members with an opportunity to discuss wishes and desires.

There is much thought and consideration that goes into the creation of a comprehensive power of attorney. One of the most important decisions is who will serve as agent. When a parent or loved one makes the decision to sign a power of attorney, it is a good opportunity for that person to discuss wishes and expectations with family and specifically with the person named as agent in the power of attorney.

4. Prevents questions about principal's intent.

You may have heard or read about court battles over a person's intent once that person has become incapacitated. A well-drafted power of attorney, along with other health care directives, can eliminate the need for family members to argue or disagree over a loved one's wishes. Once

written down, advance directives are excellent evidence of the person's intent and further, they are difficult to dispute.

5. Allows agents to talk to third party service providers.

An agent under a power of attorney is often in the position of trying to reconcile bank charges, make arrangements for health care, engage professionals for services to be provided to the principal, and much more. Without a comprehensive power of attorney giving authority to the agent, many companies will refuse to disclose information to anyone other than the incapacitated person. This can result in a great deal of frustration on the part of the family as well as lost time and money.

There are many more reasons why a comprehensive power of attorney is critical but the above list provides a good base to demonstrate the importance. Determining which powers are most important depends on the situation of the principal and their loved ones. This is why a comprehensive power of attorney is so essential: no one can predict exactly which powers will be needed in the future. The goal is to have a power of attorney in place that empowers a succession of trustworthy agents to do whatever need to be done in the future. Please contact the Law Offices of Hoyt & Bryan at (407) 977-8080 for more information.