

# Power of Attorney: Does Your Young Adult Have One?

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Whether your young adult is headed off to college, starting a full-time job, joining the military, or taking some time off to figure out what the future holds, it will be the beginning of a new journey filled with different responsibilities, freedoms, and experiences. It's understandable that, as a loving, caring parent, you believe you still need to control some aspects of your child's life. But legally, after your child's 18th birthday, you have no say over his or her financial (or medical) matters — even if you're footing the bills. A durable power of attorney can help bridge their path to adulthood.

While discussing financial issues with young adults can be challenging, it's worth every effort to have this important talk at the appropriate time. Here are a few considerations that may help with your conversation.

## Reasons why your adult child should designate you as 'agent'

With a valid durable power of attorney in which a parent has been designated as the agent, you can take any legal action assigned and permitted by your son or daughter in the document.

Keep in mind, it's not uncommon for a designated agent to have to present the actual document in a transaction to invoke your power. This is generally to ensure that proper authority has been granted for the agent to undertake the action in question since a durable power of attorney can be either narrowly tailored or grant broad authority.

For example:

- If your son wants to sell his car that's been sitting in your garage for months while he's attending college in another state, your state's motor vehicles department generally will require that you present the power of attorney before your authority to sign the title will be honored.

## 'Why Does My Adult Child Need a Durable Power of Attorney?'

"A durable power of attorney not only is an important part of the lifetime planning process but also of becoming an adult. This legal document allows your adult child (the 'principal' or 'grantor') to appoint a person (an 'agent' or 'attorney-in-fact') to have temporary or permanent authority for making financial decisions on your son or daughter's behalf in case of absence or incapacity.

"Under certain circumstances, if your adult child hasn't legally designated a trusted individual to act as an agent or attorney-in-fact through a durable power of attorney, the court will appoint a guardian or conservator to manage your adult child's finances — and it could be a person your son or daughter may not trust or want to be involved."



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- If your daughter wants to buy or sell a piece of real estate and she's living and teaching overseas, you would be asked to present the power of attorney verifying you are the agent of record acting on her behalf in order for the title company to validate and proceed with the transaction.

It's also important to note that this is the case if you're opening or closing bank accounts or selling securities on behalf of an adult child. However, an agent generally does not need to present the power of attorney when signing checks.

Let's say your daughter is studying abroad. Having a durable power of attorney appointing you as the agent would allow you to handle necessary financial paperwork from here on her behalf or access her bank account in an emergency to pay her bills or renew insurance coverage.

Additionally, if you are a parent of a person with a disability, being able to act as the agent might help with monitoring and assisting with financial choices. However, a person with disabilities must understand the details of the power of attorney document and be competent to sign it.

Bottom line, even though a power of attorney gives parents (as agents) the authority to execute transactions on behalf of the adult child, any and all decisions must be made according to the wishes of the child. You, as the agent, cannot substitute your will for theirs.

## Other important legal documents your adult child should consider

After you talk with your child about authorizing you as agent regarding financial matters, you also should discuss other important legal authorizations which often accompany a durable power of attorney for finances:

- **Durable power of attorney for health care.** With this legal document, the agent is granted the authority to receive medical information and make medical decisions if an adult child becomes incapacitated as a result of an accident or medical emergency.
- **HIPAA privacy authorization.** A signed HIPAA authorization form authorizes medical care providers to disclose your adult child's protected health information to the agent. Without it, health care providers are legally prohibited from sharing information, even with family members and even if they are covered under your health insurance.
- **Health care directive.** Sometimes referred to as a living will, this directive allows your child to specify his or her wishes regarding medical treatments used to prolong life and organ donor preferences in case of an emergency or serious health condition.

With each of the legal documents mentioned, it's best to consult with your family's legal counsel and have an attorney draft the documents as this will ensure they are tailored to best meet the needs of your young adult.



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These documents may also be available as fillable forms on your state or local bar association website. If you choose to go this route, it might be fitting to use this as a stop-gap measure only and have the documents reviewed and updated by your family's legal counsel at the earliest possible convenience.

### Next steps

Contact Commerce Financial Advisors today for more information or if you have questions about these important documents.

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Brynne is trust counsel for Commerce Trust Company. Brynne is responsible for the oversight of issues involving the risk and liability arising from fiduciary activities of Commerce Trust Company. Prior to joining Commerce Trust in 2021, Brynne practiced law with two prominent Kansas City estate planning firms. Brynne graduated from the University of Missouri, Columbia with a Bachelor of Science in Business Administration and the University of Missouri, Kansas City with a Master of Business Administration. She then earned her Juris Doctor and her Master of Law in Taxation from the University of Missouri, Kansas City, School of Law. Brynne has served on numerous boards of organizations within the Kansas City estate planning and tax community.



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