



Press Release

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**For More Information
EILEEN DOHERTY, MS
Executive Director
303-333-3482**

Signing a Power of Attorney Is Serious

Denver, Co. Seeking help from a trusted family member or friend is important, especially for individuals who may be older or whose health is somewhat impaired. Older adults often find themselves needing help with bill paying or selecting alternative housing and home care arrangements.

In Colorado, a general power of attorney allows an individual to name an agent who can act on that individual's behalf. A durable power of attorney gives the agent powers to act, even if the principal is incapacitated or can not communicate. A durable power of attorney endures when the individual is unable to make decisions.

In signing a general power of attorney, the agent is empowered to buy and sell property, to make loans, and to access all investment, checking, and saving accounts. For example, an agent can deposit money into bank accounts, as well as write checks against the account. The agent can also sell a house, car, stocks, or other property. In addition, the agent can obtain credit cards, take out new mortgages, and borrow money for automobiles.

In executing a power of attorney, the agent is not supervised by the court or any other third party. This gives the agent full power and access to an individual's financial affairs. If an individual does not trust a family member, friend, neighbor or other acquaintance, the older adult should not execute a power of attorney.

A power of attorney can only be executed if the individual is competent to make decisions. If an individual is incapacitated the court may be asked to appoint a conservator who is supervised. The court, at its' sole discretion, can appoint a conservator who may or may not be of the individual's choosing.

The durable power of attorney can be limiting or general, meaning the individual can give the agent power only to manage a bank account, but not to secure mortgages, sell property or handle other financial matters.

Effective July 1, 2007 an agent who abuses a power of attorney, can face felony charges and jail time for taking advantage of an at-risk older adult. To prosecute an individual, theft must be proven against the agent.

In addition to a general power of attorney for financial matters, it is advisable to appoint a medical power of attorney. An agent who is appointed as the medical power of attorney is responsible for making decisions regarding health care.

The medical power of attorney should contain instructions about any treatment the individual wishes to receive or avoid, such as chemotherapy, dialysis, feeding tubes, and surgery. It should also describe any palliative treatment that is desired.

The medical power of attorney gives the agent access to medical records. It also provides authority to the agent to employ and discharge doctors, nurses, dentists, and other health care professionals. The agent is also empowered to admit the individual to a hospital, nursing home or hospice.

Agents can consent to treatment, tests, and other medical procedures, as well as to authorize pain relief for the individual, even if it means the treatment may hasten the individual's death.

Similarly, the agent can withhold treatment such as removing a respirator, discontinuing feeding tubes or dialysis, or respiratory therapy.

If an individual does not have a medical power of attorney, the health care institution, such as the hospital or nursing home, can ask family and significant others to designate a health care proxy to make medical decisions. The health care proxy has the same responsibilities as the agent under a medical power of attorney.

Powers of attorney are generally drawn up by an attorney to ensure the agent is given the necessary powers to act on the individual's behalf. Pre-printed forms that conform to Colorado law are available through Bradford Publishing in Denver. Pre-printed forms are available at local office supply stores, but may not be specific to Colorado.

For more information or counseling, individuals can call 303-333-3482.

Eileen Doherty, MS is the Executive Director of Senior Answers and Services and the Colorado Gerontological Society, 3006 East Colfax, Denver CO 80206. She has more than 30 years of experience in education and training, clinical practice, research, and public policy in gerontology. You may reach her at 303-333-3482 or Doherty001@att.net.