



Press Release

For More Information
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Colorado Enacts New Power of Attorney Law January 2010

Denver, CO. Giving someone a power of attorney may be the most important legal action that an older adult can take in their life. A financial or general power of attorney gives the agent the power to pay bills, execute loans and credit cards, and/or sell a house and car.

The benefits of a power of attorney allow the agent to make financial decisions if the principal is unable to make decisions, usually at the time of incapacity. The disadvantages include abuse of the power by agents who use assets for their benefit, rather than for the principal's benefit. Most agents are honest and operate for the benefit of the principal for whom they have assumed responsibility.

All powers of attorney executed prior to December 31, 2009 will continue to be valid and do not need to be changed, unless the principal wishes to make changes.

The new power of attorney act will go into effect on January 1, 2010 which will bring some significant changes, most importantly a standardized form. The form will identify which powers will be given to the agent and which powers will be retained by the principal. This protection gives the principal the opportunity to discuss with the agent the management of their estate.

Starting January 1, 2010, powers of attorney will be durable, unless otherwise stated, meaning the power is not altered based on capacity of the principal. Any power of attorney executed prior to December 31, 2009 is durable only if explicitly stated.

Under the new law, photocopies or electronically transmitted copies of an original power of attorney has the same effect as the original, therefore, the copy allows the agent to conduct business. Third parties do have the option to request the original document.

The new law allows the principal to nominate a conservator and/or guardian of their estate in the power of attorney document. Upon appointment by the court of a conservator and/or a guardian, both are responsible to the power of attorney and to the principal.

Powers of attorney will be effective upon execution, unless a future date is noted. If a power of attorney becomes effective upon a person's incapacity, a physician or psychologist, an attorney-at-law, judge, or appropriate governmental official can make the determination of capacity. A principal or an agent can terminate the power of attorney at any time.

A principal may appoint co-agents who can act independently. Individuals can also appoint successor agents who have the same power as the agent. The law does allow the agent to be reimbursed for reasonable expenses. The agent is responsible for making decisions that are in the best interests of the principal, including record keeping and preserving the principal's estate, although the agent is not responsible if the estate declines.

Historically, powers of attorney have given the agent the power to conduct business on behalf of the individual, the new law outlines the responsibilities with banks and financial institutions, real and tangible property, stocks and bonds, commodities and options, operation of the family business, insurance and annuities, estates and trusts, claims and litigation, personal and family maintenance, benefits from government programs or military service, retirement plans, taxes, and gifts.

The new law also gives third parties the power to refuse to accept a power of attorney if they believe the motive of the agent is not in the best interest of the principal with the assistance of the courts. However, if the third party challenges the power of attorney, the third party may incur expenses for attorney's fees and other costs.

For more information about the new law or reviewing your current power of attorney, contact your attorney or call 303-333-3482 for a list of referrals to elder law attorneys. You can also find a list of elder law attorneys at <http://www.naela.org>.

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