POWER OF ATTORNEY

Authorize Someone to Act on Your Behalf

A Power of Attorney (POA) is a legal document that you (as the principal) create. It gives another person (your agent, or "attorney-in-fact") the legal authority to act on your behalf. You can give your agent broad, ongoing powers, such as handling all of your finances, or limit him/her to specific actions and dates, for example selling your car while you are away. Your agent may not represent you in court. He or she may not write, change, or revoke your will.

BASIC TYPES OF POWER OF ATTORNEY

- General Financial Power of Attorney: permits the agent to transact any or all business, other than health care, for the principal.
- Durable Financial Power of Attorney: remains active if the principal becomes incapacitated.
- Durable Power of Attorney for Health Care, sometimes called Health Care Proxy: authority is limited to health care decisions. An agent so named can make decisions for the principal concerning health care. The principal can also name an alternate agent.
- Limited (or Special) Power of Attorney: used for childcare, for example, allowing the agent to make decisions in place of the principal during illness or after the principal's death. The agent may also be given power to handle the principal's financial affairs.
- Military Power of Attorney: Federal law makes special provisions for the drafting of powers of attorney for military personnel who are serving overseas. The principal can name an alternate agent.
- Financial Institution Power of Attorney: some banks and other financial institutions (such as CalPERS and the IRS) require that you use their own forms.

SELF HELP


www.saclaw.org/pages/living-wills.aspx
Family Caregiver Alliance: National Center on Caregiving

WEST'S ANNOTATED CALIFORNIA CODES KFC 30.5 64 P76

Deering's California Code Annotated KFC 30.5 64 P76 (compact)


ATTORNEY'S PROBATE CODE'S 4.401 supplement Negally supplemented Negally supplemented Attorney's Probate Code § 4.710 supplies Negally supplemented Negally supplemented

Most of the books listed above supply either print or electronic access to sample or

FORUMS AND EXAMPLES

Electronic access: On the Law Library's computer, using

Attorneys use this comprehensive source for legal interpretation and form drafting.

California Powers of Attorney and Health Care Directives KFC 110.29 C35

For working with these documents and language, use the Matthew Bender CD.

Electronic access: On the Law Library's computer, using the Matthew Bender CD.

California Legal Forms Transaction Guide KFC 68.33 (Ready Reference)

Practice Guides

is valid. Forms are available on an accompanying CD.

Power of Attorney Handbook KF 130.79 H35 (Self-Help)

Includes Child Care Power of Attorney.

California Power of Attorney Handbook: With Forms KFC 110.29 T35 (Self-Help)
Do I Need Estate Planning?
Explain Planning is a process. It involves people —

1. What is estate planning?
2. Why is involved in estate planning?
3. What is involved in estate planning?
4. Why is involved in estate planning?
• What are my assets and what is their approximate value?
• Whom do I want to receive those assets — and when?
• Who should manage those assets if I cannot — either during my lifetime or after my death?
• Who should be responsible for taking care of my minor children if I become unable to care for them myself?
• Who should make decisions on my behalf concerning my care and welfare if I become unable to care for myself?
• What do I want done with my remains after I die and where would I want them buried, scattered or otherwise laid to rest?

Once you have some answers to these questions, you are ready to seek the advice and services of a qualified lawyer (see #18). A lawyer can help you create an estate plan, and advise you on such issues as taxes, title to assets and the management of your estate.

3. Who needs estate planning?

You do — whether your estate is large or small. Either way, you should designate someone to manage your assets and make health care and personal care decisions for you if you ever become unable to do so for yourself. For many, such “life planning” is the most important aspect of an estate plan.

If your estate is small, your plan may simply focus on who will receive your assets after your death, and who should manage your estate, pay your last debts and handle the distribution of your assets. If your estate is large, your lawyer will also discuss various ways of preserving your assets for your beneficiaries and of reducing or postponing the amount of taxes which otherwise might be payable after your death.

If you fail to plan ahead, a judge will appoint someone to handle your assets and personal care. And your assets will be distributed to your heirs according to a set of rules known as intestate succession. Contrary to popular myth, everything does not automatically go to the state if you die without a will. Your relatives, no matter how remote, and, in some cases, the relatives of your spouse, have priority in inheritance ahead of the state. Still, they may not be your choice of heirs; an estate plan gives you much greater control over who will inherit your assets after your death.

4. What is included in my estate?

All of your assets. This could include assets held in your name alone or jointly with others, assets such as bank accounts, real estate, stocks and bonds, and furniture, cars and jewelry. Your assets may also include life insurance proceeds, retirement accounts and payments that are due to you (such as a tax refund, outstanding loan or inheritance).

The value of your estate is equal to the “fair market value” of all of your various types of property — after you have deducted debts (your car loan, for example, and any mortgage on your home).

The value of your estate is important in determining whether your estate will be subject to estate taxes after your death (see #11) and whether your beneficiaries could later be subject to capital gains taxes. Ensuring that there will be sufficient resources to pay such taxes is another important part of the estate planning process.

5. What is a will?

A will is a traditional legal document that:
• Names individuals (or charitable organizations) who will receive your assets after your death, either by outright gift or in a trust.
• Nominates an executor who will be appointed and supervised by the probate court to manage your estate; pay your debts, expenses and taxes;
need for court involvement. To your beneficiaries when you die — all without the
pay your debts and other, receiving court approval,
your executor would then take charge of your assets.
fill a position in court and acting appropriately,
your will start the process after your death. By
including the executor named in
this or the will. Specifically, the executor named in
a deceased person’s assets to the beneficiaries listed
a document is a court-supervised process for transferring
the property is a court-supervised process for transferring

3. What is a revocable living
Public/Pamphlet’s axle
www.calbar.ca.gov/PublicPamphlets.aspx

4. Living Trust: Will I Need a
For more information, see the pamphlet Do I Need a

5. Court Supposition
Trust is an important subject to discuss.
Keep in mind your choice of trustees is very im-
that your will and other estate planning documen-
most assets will not be automatically subject to di-
portant. The trustee’s management of your living
assets will be held in trust. Keep in mind your choice of trustees is very im-

6. What is a revocable living

7. What is a revocable living

8. Court Supposition

9. If a legal document that can, in some cases, partial-

10. Living Trust: Will I Need a
For more information, see the pamphlet Do I Need a
your family and friends. 

b) Your executor or trustee will be responsible for overseeing the distribution of your estate. 

c) Your executor or trustee will be responsible for making decisions about your assets and liabilities. 

d) Your executor or trustee will be responsible for paying any taxes that may be owed. 

You are responsible for choosing an executor or trustee who is trustworthy, competent, and has the capacity to handle your estate. 

4. Who should be my executor? 

Choosing the right person to serve as your executor or trustee is crucial. Consider the following factors when selecting an executor: 

a) Trustworthiness 

b) Competency 

c) Availability 

d) Geography 

You may want to choose someone who lives in the same area as you, or someone who is familiar with your financial situation. 

5. Can I name more than one executor? 

Yes, you can name more than one executor. This can be helpful if you are unsure of who you want to handle your estate or if you want to ensure that your estate is handled by someone you trust. 

6. Can I name an alternate executor? 

Yes, you can name an alternate executor. This can be helpful if you want to ensure that your estate is handled by someone you trust, even if the original executor is unavailable. 

7. Can I change my executor or trustee? 

Yes, you can change your executor or trustee at any time. This can be helpful if you change your mind about who you want to handle your estate or if you want to ensure that your estate is handled by someone you trust. 

8. Benefits of having an executor or trustee. 

Having an executor or trustee can offer several benefits, including: 

a) Protection of your assets 

b) Minimization of taxes 

c) Avoidance of probate 

d) Distribution of your assets to your beneficiaries 

Choosing the right executor or trustee is crucial for ensuring that your estate is handled in a way that honors your wishes and protects your loved ones. 

9. Your executor or trustee should be made aware of your wishes. 

You should communicate your wishes and desires to your executor or trustee. This can be done in writing or verbally. It is important to ensure that your executor or trustee understands your wishes and is committed to carrying them out. 

10. Conclusion. 

Choosing the right executor or trustee is crucial for ensuring that your estate is handled in a way that honors your wishes and protects your loved ones. By communicating your wishes and desires to your executor or trustee, you can ensure that your estate is distributed in a way that meets your needs and the needs of your beneficiaries.
10 How should I provide for my minor children?

4. The make a difference?

2. Does it really matter in which I hold

the escrow planning process.

should be obtained from a competent lawyer and
lege the legal advice your takes and law
property and corporation shareholders laws, we'll. 
state and gifts, but also income, capital gains,
only. It is impressive must take into account not only
keep in mind that this same law.

be reported to the IRS.

estate, the exclusion "dissessed above" and should
in excess of the annual exclusion amount reduce ones
the exclusion of medical insurance premiums (or anyone's
million of medical insurance premiums (or anyone's

If you did not pay yourself or your grandchild's college
gift tax exemption amount of $2 million for medical
ship which is subject to the gift tax. This annual
is subject to the gift tax. You can give away
income while you are alive. You can give away
saved by proper estate planning before your death;
except this amount, significant estate taxes can be
income in domestic partnerships now.
property in a trust, for example, or a beneficiary.
community property will be able to deduce your
consequences of any proposed changes. Your estate
in your assets; your should understand the tax and

s to those assets is a critical plan in your estate.
with the name of your assets and how you hold the

important be taxed?

11. Will my beneficiaries

for the child's benefit until the child is over 18. A
be held as the child will be or the

under the California Uniform Transfers

the child's assets will be held over 18 years.

can empower your agent to handle nearly all of your affairs, except for the estate of your children or other family members (see example). You may choose to set up a trust for their benefit.

Yes, certain kinds of assets are transferred directly to

13. Are there other ways of

his or her will.

If so, describe any special arrangements you have made.

Also, you may choose to set up a trust for a specific beneficiary, such as a friend or relative.

A power of attorney, for example, is a written legal document that gives the named beneficiary the power to make decisions on your behalf. It is important to have a durable power of attorney, which remains in effect if you become incapacitated.

(continued)
be referred by the state to provide such guidance. The planning advice is currently the professional must be by professionals who are familiar with the legal and ethical implications of the planning process. Within their areas of expertise, these professionals can assist in planning your estate. If you become unable to make any such decisions, you should seek professional help. If you need legal advice, keep in mind that wills and trusts are negotiated agreements. These powers of attorney are fulfilled when your agent expires, but they cannot take anything of theirs. Your agent, however, cannot make any such decisions.

If you become unable to make any such decisions, you should seek professional help.

Can I do it myself? Yes, it is possible for a person to

If you set up a living trust, it is the trustee who will

If you lose your decision-making capacity, you may have been transferred to your living trust. However, even if you have a living trust, you should still consider seeking the advice of a professional who can guide you through the necessary management of the assets.

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Do I Need a Living Trust?
1. What is a living trust?

2. How could a living trust be helpful if I become incapacitated?

3. Should everyone have a living trust?

4. How could a living trust do me good?

5. How should I choose the trustee of my living trust?

6. Of my deceased.

7. Who should be the trustee of my living trust?

8. What are the disadvantages of a living trust?

9. Will I have a living trust, do I still need living trust?

10. Will a living trust help reduce the estate taxes?

11. Will I love to live on income tax?

12. What other kinds of trusts are there?

13. Why should I love the documents of a living trust?

14. What should I do if I find a qualified lawyer?

15. Should I beware of "promoters" meant?

16. How much does a living trust cost?
During the conservatorship process, a judge could do -

property. Without court supervision or approval, these decisions might be made in a manner that is not in the best interest of the conservatee. The conservatee's property, including real and personal property, must be managed by a conservator of property.

1. Should everyone have a living trust?

2. What can a living trust do for me?

3. Should everyone have a living trust?

4. How could a living trust be incapacitated?
After your death, a probate would be held with the court and notice would be given to creditors and heirs. An inventory of your assets would be compiled to probate your estate. Your will would be read, and your executor would be appointed to administer your estate. After the executor is given your will, he or she will distribute your estate according to its provisions.
8. What are the disadvantages of a living trust?

7. How are my assets put into the living trust?
health care decisions for you when you can no longer make health care decisions. This allows your attorney-in-fact to make decisions on your behalf.

You might also consider setting up an advance health care directive/health care power of attorney for health care decisions. Although your health care power of attorney will be effective as soon as you execute it, a living trust is a legal document, which should be executed in your estate planning.

Although other professional advisors (e.g., #17) may be consulted by you in your estate planning, a qualified estate planning lawyer can help you prepare your living trust, as well as a will and other estate documents (see #17).

4. Who Should Draft a Living Trust?

Is it wise to hire an attorney to handle my estate planning?

Yes, it is wise to hire a qualified estate planning lawyer to handle your estate planning. Estate planning involves a variety of complex legal issues, including tax planning, trusts, and wills. An attorney with experience in estate planning can help you navigate these issues and ensure that your estate plan is effective.

1. What Other Estate Planning documents should I have?

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After your death, the income tax return of the living trust is similar to a probate.

The living trust estate tax return will be filed on Form 1041, the Form 1041 is used for the living trust estate tax return.

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15. Should I be aware of "promoters" of financial and estate planning services?

Yes. There are many who call themselves "trust specialists," "estate planning attorneys," or "financial planners." Don't be fooled. These individuals are not always qualified or experienced. Always consult with a lawyer or other financial advisor who is knowledgeable in estate planning. Be sure to shop around and compare credentials before making your decision.