

Financial Power of Attorney

Important Vocabulary:

- Agent: the individual designated by a power of attorney document to make decisions on behalf of a principal and has consented to act in that capacity.
- Principal: the individual who authorizes someone to act on their behalf (signs the power of attorney document).

What is a financial power of attorney (FPOA)? A FPOA is a document authorizing an agent to make financial management decisions for the principal. The FPOA form is available through the Iowa State Bar Association (www.iowabar.org).

Who should be chosen to serve as an agent? The agent is the person that will be managing the principal's finances, so it is important to choose someone trustworthy; someone who will not abuse or exploit this power, will listen to the principal's wishes included in the document or otherwise communicated to the agent, and will look out for the principal's best interests. The principal also has the option of designating a successor agent who can take over if the original agent is unable or unwilling to serve.

When does the FPOA become effective? A FPOA is effective on the date it is signed, unless the principal chooses for it to become effective upon the occurrence of a future date or event or incapacity; this would need to be stated in the FPOA document. If the principal chooses for the FPOA to become effective at a later date, the principal may authorize one or more persons to make, in writing, the determination that the event or incapacity has occurred.

What does the agent do? The FPOA form lists a variety of financial management actions an agent is permitted to make on behalf of a principal. The principal has the ability to pick and choose what authority he or she wishes to grant to an agent. For this reason, it is important that the agent review the FPOA document to learn what his or her responsibilities include.

Most importantly, an agent is obligated to act in conformity with the following: (1) in accordance with the principal's reasonable expectations to the extent actually known by the agent and otherwise in the principal's best interest; (2) in good faith; and (3) only within the scope and authority granted in the power of attorney.

Who should receive a copy of the FPOA? The person named as agent and any person named as a successor agent should receive a copy. It would also be wise to share a copy with the applicable financial institution(s).

What relief is available when an agent has abused his or her authority? Iowa law permits a number of people and entities to ask the court to review the actions of an agent if they suspect any wrongdoing. An agent found to have violated their responsibilities under Iowa law may be ordered to pay to the principal or the principal's successors the amount required to restore the principal's property. The agent who is found guilty of wrongdoing may also be ordered to pay the attorney's fees and costs paid on the agent's behalf.

Can the FPOA be revoked? Yes, the principal may revoke the document. The FPOA terminates when any of the following occur: the principal dies; the principal becomes incapacitated, if the power is not durable; the principal revokes the power of attorney; the power of attorney provides that it terminates; the purpose of the power of attorney is accomplished; the principal revokes the agent's authority or the agent dies, becomes incapacitated, or resigns, and the power of attorney does not provide for another agent to act under the power of attorney.

The mission of the Office of the State Long-Term Care Ombudsman is to protect the health, safety, welfare, and rights of individuals residing in long-term care by investigating complaints, seeking resolutions to problems, and providing advocacy with the goal of enhancing quality of life and care.