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There are different types of powers of attorney available in Michigan: financial, medical, and durable. These documents can be either a limited POA or a general POA. The limited form provides specific responsibilities, while the general one is more broad, giving the agent a wide range of authority or power. Here are the POA types: Financial Power of Attorney - It is a document that gives the agent power to make financial transactions which can be as simple as signing checks or withdrawing and depositing money for the principal. The POA can also be presented to file tax returns as well as manage properties and investments. Healthcare Power of Attorney - It is a document that gives the agent the authority to make healthcare-related decisions on behalf of the principal. The decisions may refer to the principal's medications, surgery, and other health-related issues. The principal must sign a durable POA to continue the authority when the patient becomes incompetent. Durable Power of Attorney - A document is considered durable when the POA remains in effect even when the principal becomes incapacitated. It is a vital document ensuring that financial and healthcare transactions remain unhindered if the principal has been declared incapable of making sound decisions. How To Get a Power of Attorney in Michigan One may get a POA through a Michigan law firm. But for convenience, it's also possible to download a printable Michigan POA that can then be personalized according to the principal's needs. In Michigan, the POA must be signed in front of two witnesses or a notary public. Michigan Power of Attorney Laws The major law that governs POAs in Michigan is Chapter 700 - Estate and Protected Individuals Code from the 2019 Michigan Compiled Laws, particularly Act 386 of the 1998 Estates and Protected Individuals Code. It has the following provisions: § 700.5501 - This section defines a durable POA and states that the document must have the following words to be considered durable: "The power of attorney is not affected by the principal's subsequent disability or incapacity, or by the lapse of time." § 700.5502 - This section explains that the activities of the agent and attorney-in-fact remain the same before and after the incapacity of the principal unless there is an explicit statement in the document that says otherwise. § 700.5503 - This section decides what happens after the durable POA has been executed. The court appoints a conservator, estate guardian, or other fiduciary for the management of the properties. The section states: "By a durable power of attorney, a principal may nominate the conservator, guardian of his or her estate, or guardian of his or her person for consideration by the court if a protective proceeding for the principal's person or estate is commenced after execution of the power of attorney." A Power of Attorney (POA) is a legal document that allows one person to act on behalf of another in financial, medical, or personal matters. In Michigan, a properly executed POA is essential for managing affairs when someone becomes incapacitated or needs assistance. Without one, loved ones may face legal obstacles in making important decisions. Understanding how a POA works and the rules governing it in Michigan ensures both the principal and the appointed agent are protected. Legal Requirements For a Power of Attorney to be legally valid in Michigan, it must comply with the Michigan Compiled Laws (MCL). The document must be signed by the principal and, in most cases, notarized or witnessed by two individuals. A durable POA—one that remains effective if the principal becomes incapacitated—must explicitly state that the authority continues despite the principal's disability. Without this language, the POA may be ineffective when most needed. The principal must be of sound mind when executing the document. Courts have ruled, such as in In re Estate of Karmey, 468 Mich 68 (2003), that a POA signed by someone lacking mental capacity can be invalidated. If there are concerns about the principal's cognitive ability, obtaining a medical evaluation can help prevent legal disputes. The scope of authority must be clearly defined. Michigan law does not assume an agent has unlimited power unless explicitly stated. Certain powers, like making gifts or changing beneficiary designations, must be specifically granted. If these powers are not included, the agent lacks the legal authority to perform such actions, potentially complicating estate planning or financial management. Types of Authority A Power of Attorney in Michigan can grant different levels of authority based on the principal's needs. The type selected determines the extent and duration of the agent's power. Durable A Durable Power of Attorney remains in effect even if the principal becomes incapacitated. To be considered durable, the POA must include specific language stating that the agent's authority continues despite the principal's disability or incapacity. Without this provision, the POA automatically terminates if the principal is no longer mentally competent. Durable POAs are commonly used for financial and legal matters, allowing the agent to manage bank accounts, pay bills, file taxes, and handle real estate transactions. If a person becomes incapacitated without a Durable POA, their family may need to petition for guardianship or conservatorship, a process that can be time-consuming and costly. Michigan courts have upheld the necessity of clear durability language in cases such as In re Estate of Cummin, 266 Mich App 101 (2005), where a POA was deemed invalid due to ambiguous wording. Limited A Limited Power of Attorney grants an agent authority over specific tasks or for a defined period. This type of POA is often used for real estate transactions, business dealings, or financial matters when the principal is unavailable. For example, a Michigan resident selling property while out of state may authorize an agent to sign closing documents on their behalf. The scope of authority must be explicitly stated. If a Limited POA is created for a single transaction, it typically terminates upon completion. If it is time-based, it expires on the specified date. Any ambiguity in a Limited POA can lead to legal disputes, as seen in In re Estate of Erickson, 202 Mich App 329 (1993), where a challenge arose over whether an agent exceeded their authority. Because a Limited POA does not provide broad decision-making power, it must be drafted carefully to avoid unintended consequences. If the principal later requires additional assistance, a new POA may be necessary. Healthcare A Healthcare Power of Attorney, also known as a Patient Advocate Designation, allows an agent to make medical decisions on behalf of the principal when they are unable to do so. The document must be in writing, signed, and witnessed by two individuals who are not the agent, the principal's healthcare provider, or related to the principal by blood or marriage. The agent's authority includes consenting to or refusing medical treatment, arranging for long-term care, and making end-of-life decisions. However, the agent's authority only becomes effective when the principal is determined to be incapacitated by a physician or licensed psychologist. A Healthcare POA does not grant financial authority, meaning a separate document is needed for asset management. Michigan law allows the principal to include specific instructions regarding medical care, such as preferences for life-sustaining treatment. If a dispute arises over the agent's decisions, courts may intervene, as seen in In re Martin, 450 Mich 204 (1995), where the Michigan Supreme Court addressed withdrawing life support based on a patient's prior wishes. A properly executed Healthcare POA that clearly outlines the principal's preferences can help prevent conflicts among family members and medical providers. Selecting and Appointing an Agent Choosing the right agent requires careful consideration, as this individual will be entrusted with significant legal authority. The principal must select someone trustworthy and capable of handling the responsibilities outlined in the document. Michigan law requires that the agent be at least 18 years old and mentally competent. Many individuals choose a close family member, though a professional fiduciary, such as an attorney or financial advisor, may be preferable for complex financial matters. The principal must clearly identify the agent to avoid disputes. The document should use the agent's full legal name and, if necessary, additional identifying details such as their address. If multiple agents are appointed, the POA should specify whether they must act jointly or independently. While co-agents can provide checks and balances, they can also create complications if disagreements arise. Before finalizing the appointment, the principal should discuss the role with the prospective agent to ensure they are willing to accept the responsibility. While Michigan law does not require an agent to sign the POA for it to be valid, obtaining their written acknowledgment can confirm their acceptance. Additionally, some financial institutions may require an agent to sign an affidavit before recognizing their authority. Responsibilities of the Agent An agent acting under a Power of Attorney in Michigan has a fiduciary duty to act in the principal's best interest, exercising care, loyalty, and honesty. They must avoid conflicts of interest and cannot use their authority for personal gain unless expressly authorized. Failure to do so can lead to legal disputes and liability. Financial agents manage the principal's income, pay bills, oversee investments, and ensure taxes are filed on time. If granted authority over real estate, the agent may buy, sell, or lease property but must ensure transactions align with the principal's financial well-being. Agents should be prepared to provide an accounting of their actions if requested, as transparency helps prevent allegations of mismanagement. Michigan courts have ruled in cases like In re Estate of Cummin, 266 Mich App 101 (2005), that improper documentation of financial decisions may be presumed as misconduct. Healthcare agents must follow the principal's expressed wishes regarding medical treatment. Decisions only take effect when the principal is deemed incapacitated. The agent must consult with medical professionals, review treatment options, and make informed decisions aligned with the principal's known preferences. If the principal's wishes are unclear, the agent must act in their best interest, considering quality of life and likelihood of recovery. Execution Formalities A Power of Attorney must be properly executed to be legally recognized in Michigan. The principal must sign the POA voluntarily and while of sound mind. If there is any indication of coercion or undue influence, the document could be challenged in court, leading to litigation and delays. Most POAs must be either notarized or signed in the presence of two witnesses. Witnesses must be competent adults and cannot be the agent, the agent's spouse, or the principal's healthcare provider. This requirement helps confirm that the principal executed the document willingly. Some financial institutions may impose additional requirements, such as requiring the agent to provide a signed affidavit. Failure to meet these formalities can result in banks or other entities refusing to honor the POA. Revocation and Termination A Power of Attorney does not grant indefinite authority. The principal retains the right to revoke the POA at any time, provided they are mentally competent. Revocation must be in writing and communicated to the agent and relevant third parties, such as banks or healthcare providers. Simply destroying the document may not be sufficient, as institutions may still act based on their records unless they receive formal notice. Many individuals draft a new POA explicitly stating that any previous versions are revoked. A POA may also terminate automatically under certain circumstances. If the principal becomes incapacitated and the POA is not durable, the agent's authority ceases immediately. Death terminates a POA, as it does not grant authority beyond the principal's lifetime. If an agent is unable or unwilling to serve and no successor is named, the POA may become ineffective, requiring court intervention. Courts may also terminate a POA if an agent engages in misconduct, as seen in In re Estate of Susser, 254 Mich App 232 (2002), where an agent was removed for breaching fiduciary duties. A power of attorney (POA) is a document that allows you to name a person you trust to make decisions for you. This article covers POAs related to money and legal decisions. For health-related decisions, you'll need a separate health care power of attorney. To learn more about health care POAs, go to the Health Care Powers of Attorney resource page.You can make a POA in Michigan if you are at least 18 years old and have "capacity" to sign the document. Having capacity means you understand:That the POA gives another person the power to make decisions for youWhat kinds of decisions they will be able to makeHow this can impact you and your propertyYour Choice: Power of Attorney Cannot Be Forced on YouA POA is a document that you can choose to sign that lets someone help make your decisions.You cannot make someone else sign a POA, even if you think they need help. The choice always belongs to the person signing.If someone is trying to force you to sign a POA, you may want to speak to a lawyer. You might be eligible for help from a free legal aid lawyer. Use the Guide to Legal Help to find a lawyer in your area. How to Choose an Agent (Substitute Decision-Maker)A Power of Attorney (POA) lets you choose someone to make decisions for you. This person is your "agent."Your agent should be someone you trust completely. They will have power to make important money and legal decisions for you. This person must also be:at least 18 years oldable to understand and make decisions clearlyBefore naming someone, talk to them first. Make sure they are willing to do this job. Even after you name them in the document, they can still say no if they don't want to do it.You can also name a backup agent. This is not required, but it is a good idea. This will make sure that someone else can act if your agent is not available.What Powers Can the Power of Attorney Give?A legal and financial POA can let your agent handle almost any money or legal matters for you. But you don't have to give them control over everything.The POA form has checkboxes that let you pick exactly which powers you want to give. You can choose some powers and not others.The form lists many different areas your agent could control. Some might not apply to your life right now, but they could in the future. For example, you might not be involved in any court cases today, but someone could sue you later. If you want your agent to be able to handle future situations, you should check those boxes now.Below is a list of the powers you can choose to give your agent:Real Property: Handle houses, land, and buildings you own including maintenance, mortgages, and property taxesTangible Personal Property: Manage physical items you can touch (furniture, cars, jewelry)Stocks and Bonds: Control investments in companies and governmentsCommodities and Options: Manage special types of investments like gold or the right to buy things laterBanks and Other Financial Institutions: Use your checking accounts, savings, loans, and credit cardsOperation of Entity or Business: Run your business or companyInsurance and Annuities: Manage your insurance policies and similar contractsEstates, Trusts, and Other Beneficial Interests: Control money or property you might receive from others after they dieClaims and Litigation: Start or participate in court cases you could be involved inPersonal and Family Maintenance: Take care of money needs for you, your spouse, your children, and anyone else who depends on youBenefits from Government Programs or Civil or Military Service: Handle public benefits like food stamps (FAP), cash assistance, Medicare, Medicaid, Social Security, or military benefitsRetirement Plans: Control retirement accounts like a 401(k), IRA, or pensionTaxes: Handle your tax forms and paymentsThe POA form also lists some powers that could be higher risk to give someone. These powers can be harder to undo if your agent misuses them. Be extra careful when deciding about these powers:Create, amend, revoke, or terminate an inter vivos trust (a living trust): Make or change a trust that manages your property while you're aliveMake a gift: Give away your money or property to othersCreate or change rights of survivorship: Set up accounts where another person automatically gets your property when you dieCreate or change a beneficiary designation: Change who gets your life insurance, retirement accounts, or other benefits when you dieAuthorize another person to exercise the authority in the POA: Pass their powers to someone else you might not know or trustWaive the principal's right to be a beneficiary: Give up your right to receive payments that would continue after your spouse's deathExercise fiduciary powers that the principal (you) has authority to delegate: Take over your responsibilities to manage money for othersAccess the content of electronic communications: Get your emails, text messages, and other private online communicationsExercise authority over any "bank, securities, or other financial account in a foreign country" within the meaning of 31 CFR 1010.350: Control money you have in accounts outside the United StatesHow to Make a Power of Attorney for Legal and Financial DecisionsMichigan created an official power of attorney (POA) form that's easier to use than writing one from scratch. The Kimble Center for Legal Drafting, part of Cooley Law School, has a fillable version of the power of attorney form available with explanations and instructions. This form becomes legally valid when:You fill out the form with your preferencesYou sign it in front of either:The witnesses or notary also sign the formIf you have witnesses, you do not have to get your POA notarized. However, getting it both witnessed and notarized can be helpful because it makes your POA look more official and banks and other companies are less likely to question it. If your POA is notarized and meets other basic requirements, people generally must accept it. Many people choose to get their POA notarized even though it's not required, just to avoid problems later.Before your agent uses the POA to act for you, they must sign the "Acceptance" section of the document. They can do this at the time you sign the POA or later.What if Someone Will Not Accept the Power of Attorney Form?Michigan changed its POA laws in 2024. As long as your POA is notarized and prepared in English, businesses and people generally must accept your POA when your agent shows it to them along with their signed acceptance form. There are only a few reasons someone can refuse. For example, they know the POA has been cancelled. If they have questions about the POA, they can take up to 7 days to check with their lawyer or ask the agent for a certified statement. If they refuse to accept the POA, you can file in court to make them accept the POA and you can ask the judge to make them pay your legal fees. Since this law is new, not everyone knows about it. If someone will not take your POA, you or your agent can show them this Fact Sheet on Financial Power of Attorney in Michigan that explains the new rules they must follow.Revoking (Cancelling) a Power of Attorney for Legal and Financial DecisionsYou can cancel your Power of Attorney (POA) at any time as long as you have "capacity." Having legal capacity means that you understand your decisions. This means:You understand that your POA gave someone else power to make decisions for you, andNow you want to take away that powerTo make sure everyone knows about your decision, it is safest to put the cancellation in writing.Use the fillable Revocation of Financial POA form. Send copies of this letter to:Your agent (the person you named in your POA)Any backup agents you listedPlaces that might have your POA on file (like your bank) Michigan estate lawyers are forever advising clients on the importance of powers of attorney. These documents can be used to name the person in charge of making another's medical decisions, or even to take care of someone's finances in his or her place. There are a number of great reasons to employ a power of attorney in order to protect yourself, your property, and your loved ones. There are a lot of legal ins-and-outs when it comes to these powers of attorney, which means they can be a bit confusing. A good estate lawyer in Grand Rapids or Muskegon will work with clients to ensure they have all of the pertinent information to make decisions and create the types of powers of attorney that will best serve their purposes. One aspect that doesn't always get a lot of consideration is how long a power of attorney lasts. For example, when you give someone the right to make your medical decisions for you, is there a time limit? Does that power ever revert to the courts? What if you gave your ex-spouse power of attorney and don't want him or her to have it anymore? There are actually several ways in which a power of attorney can end, and your Muskegon or Grand Rapids estate lawyer will likely go over them all with you and help make sure you have contingency plans in place to avoid unwanted consequences. Are you living in Michigan and concerned about managing your financial affairs in the event you become incapacitated? If so, the recent changes to the state's Durable Power of Attorney (DPOA) law are essential for you to understand. This latest Advice From Your Advocates Podcast and blog post will break down the key points of the new law and why it may be crucial to update your existing DPOA, or create one if you haven't already.What is a Durable Power of Attorney?A DPOA is a legal document that allows you to appoint someone you trust to manage your finances and make decisions on your behalf if you become unable to do so yourself. This can be due to illness, injury, or simply age-related decline.Why is the New Law Important?The new Michigan DPOA law aims to improve the enforceability and clarity of these documents. It introduces several key changes, including:Uniformity: The law aligns with other states' DPOA statutes, making it easier for financial institutions and healthcare providers to recognize and accept Michigan DPOA documents.Enforcement Mechanism: The new law provides a mechanism for enforcing DPOA documents, reducing the risk of them being rejected by banks or financial institutions.Clarified Powers: The law clarifies the various powers that can be granted to an agent through a DPOA, making it easier for both the principal (the person granting the power) and the agent to understand their respective roles and responsibilities.Do I Need to Update My Existing DPOA?While existing DPOAs created under the old law will still be technically valid, updating them with the new provisions is highly recommended. This will ensure:Greater Acceptance: Updated DPOAs are more likely to be accepted by financial institutions and healthcare providers.Reduced Risk of Conflict: Clarified language and powers can minimize the chances of misunderstandings and disagreements between the principal and the agent.Peace of Mind: Having a DPOA that complies with the current law provides greater peace of mind knowing your wishes will be respected and your finances will be managed effectively.Why Consult with a Lawyer?While online forms and templates might seem tempting, creating or updating a DPOA is a complex legal matter. Consulting with an experienced elder law attorney ensures:Accuracy: Your DPOA will be properly drafted to reflect your specific needs and wishes.Completeness: All necessary provisions and powers will be included to protect your interests.Guidance: An attorney can explain the intricacies of the new law and answer any questions you may have.The new Michigan DPOA law is a significant step forward in protecting the rights and wishes of individuals. Learn more about what this could mean for you by listening to Advice From Your Advocates Podcast's latest episode #37.Visit the Mannor Law Group website or call us today to schedule a consultation and learn more about how we can help you navigate the new DPOA law and create a comprehensive estate plan that protects your loved ones and your future.Remember: This blog post is for informational purposes only and should not be construed as legal advice. Always consult with a qualified attorney to discuss your specific situation.Listen to Advice From Your Advocates Podcast: Page 2Ep. 38: Advice From Your Advocates PodcastWhen it comes to healthcare planning, the importance of having clear and precise directives cannot be overstated. In a recent podcast episode featuring Kelli King Penner and Bob Mannor, a deep dive into the intricacies of Michigan's healthcare directives sheds light on why designating a patient advocate is crucial for ensuring your medical wishes are honored.Navigating the healthcare system and its associated legalities can be a daunting task for anyone. The episode explores the nuances that differentiate healthcare power of attorney from its financial counterpart, emphasizing the importance of legal clarity in such documents. A healthcare power of attorney is not merely a form to be filled out; it is a binding legal instrument that requires careful consideration and expert advice to execute properly.The discussion also touches upon the critical differences between Michigan's patient advocate designation and a living will. Unlike a living will, which outlines specific medical wishes on paper, a patient advocate designation in Michigan involves appointing a trusted individual to make decisions on one's behalf. This allows for more dynamic decision-making, accommodating unforeseen changes in a patient's health or personal circumstances.Another pivotal point covered in the podcast is the often-misunderstood area of Do Not Resuscitate (DNR) orders. The conversation delves into the tension between legal directives and the realities of emergency medical responses. It's a delicate balance between the autonomy of the patient and the legal and ethical obligations of healthcare providers, highlighting the need for regularly updated healthcare directives to keep pace with an individual's evolving health condition, such as dementia.One cannot overlook mental health when discussing healthcare planning. The podcast stresses the importance of including mental health considerations in legal documentation, which is frequently neglected. Mental health provisions are essential, especially in cases of cognitive challenges brought on by various forms of dementia. These provisions ensure that an individual's healthcare decisions are protected even if they face cognitive decline.The meticulous execution required for a healthcare power of attorney is underscored, particularly the proper witnessing procedures and the importance of including specific mental health provisions to prevent immediate revocation by the patient if they are declared incompetent. The conversation also serves as a reminder of the unassailable value of seeking expert legal guidance when preparing these documents.In conclusion, the podcast episode serves as a critical resource for anyone looking to navigate the complex legal landscape of healthcare directives in Michigan. It offers invaluable insights into crafting a legally sound and personally tailored healthcare directive that can safeguard one's medical wishes throughout their healthcare journey. The takeaways from this episode are clear: seek professional advice, ensure flexibility in your documents, and regularly update your healthcare directives to adapt to changing health conditions.Our team is standing by to assist you with your healthcare planning concerns. Contacting our team is quick and easy. Complete the web form at the bottom of this page or call 800-900-6030 to start the conversation. Page 3As we step into the new year, there's an important update in the realm of estate planning and financial management for individuals with disabilities: the IRS has raised the federal gift tax exclusion from $17,000 to $18,000 annually. This seemingly small change carries significant implications, particularly for those utilizing ABLE (Achieving a Better Life Experience) accounts.ABLE accounts have been a valuable tool for individuals with disabilities and their families, offering a tax-advantaged way to save and invest for disability-related expenses without jeopardizing eligibility for essential government benefits like Medicaid and Supplemental Security Income (SSI). With this recent increase in gift tax exclusion, families and individuals now have the option to contribute more each year to their ABLE accounts, enhancing their ability to plan for the future and secure financial stability.ABLE accounts are currently offered through programs in 47 states, with many programs open to individuals nationwide if they meet certain eligibility criteria, including having a disability that onset before age 26. However, there's even more promising news on the horizon: under a federal law passed in 2022, the age limit for eligibility will rise to 46 starting in 2026. This expansion of eligibility criteria will open doors for more individuals to access the benefits of ABLE accounts, providing greater financial independence and security for those with disabilities and their families.At Mannor Law Group, we understand the importance of staying informed about changes like these and how they impact our clients' financial planning strategies. If you have questions about ABLE accounts for yourself, your loved ones, or your clients, we're here to help. Our team of experienced elder law attorneys specializes in helping individuals and families access, preserve, and maximize the benefits they are entitled to, including the use of ABLE accounts.Whether you're exploring options for saving for future disability-related expenses, navigating the complexities of government benefit programs, or seeking guidance on estate planning strategies that prioritize the needs of individuals with disabilities, we have the knowledge and expertise to assist you every step of the way. Our personalized approach ensures that each client receives tailored solutions that address their unique circumstances and goals, empowering them to achieve greater financial security and peace of mind.Don't let uncertainty hold you back from accessing the resources and support you need. Contact us today to learn more about how we can help you harness the full potential of ABLE accounts and other estate planning tools to secure a brighter future for yourself or your loved ones.To schedule a consultation or inquire about our services, please call (810) 645-8426 or visit our website at www.mannorlawgroup.com.Let's navigate the path to financial empowerment together. Snug partners with Marble Law, an online law firm built for your peace of mind. Marble lawyers have extensive experience in all matters of estate planning, including the important task of funding a trust. Get started right awaySnug can help you get organized by providing one place to store and analyze Wills, Trusts, and other essential documents. You can inventory finances, personal property, digital assets, insurance, and more.Get started for freeSnug can help you organize all of life's details by providing one place to store and analyze Wills, Trusts, and other essential documents. You can inventory finances, personal property, digital assets, insurance, and more.Get started for freeSnug is a complete estate planning solution built for Financial Advisors who want to save time and offer their clients more. Whether you have an UHNW client who needs their documents analyzed or a mass affluent client getting their first Trust, we can help.Get started for freeSnug makes it easy to create a Will or Trust in under 20 minutes. Powers of Attorney and Health Care Directives are included for free with any Will or Trust, as is a year of free updates.Get started for freeSnug makes it easy to create a Will or Trust in under 20 minutes. Powers of Attorney and Health Care Directives are included for free with any Will or Trust, as is a year of free updates.Get started for freeSnug makes it easy to create a Will or Trust in under 20 minutes. Powers of Attorney and Health Care Directives are included for free with any Will or Trust, as is a year of free updates.Get started for freeOne of the cornerstones of effective estate planning is a Power of Attorney (POA). This legal document allows an individual (the principal) to authorize another person (the agent) to make decisions on their behalf. In the state of Michigan, understanding the duration and termination of a POA is critical. The lifespan of a POA mainly depends on its type - durable, springing, limited, or medical - and the specific conditions outlined within the document.The duration of a Power of Attorney is often defined within the document:In Michigan, the duration of a POA is usually determined by the terms outlined in the actual document. This means that the POA could be set to expire on a specific date, when a certain event occurs, or when the principal becomes incapacitated or passes away. All these conditions can be clearly defined by the principal at the time of creating the POA to meet their specific needs.The type of Power of Attorney also impacts its duration:Understanding the various types of POAs and their respective expiration rules is essential. Each type of POA has unique characteristics and expiration rules.Durable Power of Attorney: This type of POA remains in effect even if the principal becomes mentally incapacitated. For instance, if a principal is diagnosed with dementia, the durable POA will remain in effect, allowing the agent to make decisions on their behalf. However, as with all POAs, it ceases to be effective upon the principal's death.Springing Power of Attorney: A springing POA only becomes active under specific conditions, typically the principal's incapacitation. For example, if a principal is involved in an accident and becomes unconscious, a springing POA would spring into action, empowering the agent to make necessary decisions. This POA loses its validity when the principal regains capacity, unless otherwise stated in the document.Limited Power of Attorney: Also known as a special POA, it is used for a specific purpose or for a limited period. For example, if a principal is temporarily unable to manage their affairs, a limited POA could be used. Once the specific task is completed or the duration is over, the POA automatically ends.Medical Power of Attorney: This type of POA authorizes the agent to make medical decisions for the principal if they become unable to do so. This type of POA expires when the principal dies or revokes the POA, or when the principal regains the ability to make their own decisions.Grasping these different types of POAs and their respective expiration rules can help individuals and their appointed agents to navigate the legal landscape of power of attorney in Michigan more effectively.Revocation of a Power of Attorney:If a principal decides to revoke a POA before its stated expiration date, they must follow certain legal procedures under Michigan law. Revoking a POA isn't as simple as deciding one day that the agreement is over. It requires a proper understanding of legal procedures to ensure that all responsibilities are appropriately terminated.The principal must create a written notice of revocation. This document should include the principal's name, the agent's name, and the date the original POA was executed. This document must be signed and dated by the principal.The principal should then deliver this revocation notice to the agent. This can be done in person or through certified mail with return receipt requested, to ensure proof of delivery. It is also recommended to notify any third parties (like banks or other financial institutions) that may be dealing with the agent under the authority of the POA.Once these steps are completed, the revocation is generally effective immediately, and the agent no longer has the authority to act on behalf of the principal. However, in some cases, such as with a durable POA, the principal may need to record the revocation at the local county recorder's office where the original POA was filed.It's important to note that if the principal is mentally incapacitated, they cannot legally revoke a POA. In such a case, a court may need to intervene to determine the validity of the revocation. If you are considering revoking a POA, it's always recommended to consult with an experienced lawyer to guide you through the process in compliance with Michigan law.Power of Attorney after the principal's death:Once the principal passes away, the POA generally becomes null and void. The agent does not have the power to handle the deceased's estate. This task falls to the executor mentioned in the deceased's will or to the administrator appointed by the probate court if no will exists.The executor or administrator's role begins upon the principal's death, whereas the agent's role ends. The executor or administrator is responsible for gathering the deceased's assets, paying off any debts or taxes, and distributing the remaining assets to the beneficiaries as specified in the will, all under the supervision of the probate court.Trustees, on the other hand, are individuals or institutions appointed to manage a trust established by the principal. Unlike a POA or executor, a trustee's role does not necessarily end with the death of the principal. Instead, their responsibilities continue as outlined in the terms of the trust agreement, which may include distributing the trust's assets to beneficiaries.In some instances, the agent may also be named as the executor or trustee. In such cases, their responsibilities could extend beyond the principal's death, but their role changes. As an executor or trustee, they are no longer acting under the authority of the POA but rather under the authority of the will or trust agreement. Posted on: July 15, 2024 At Steslicki & Ghannam, PLC, our Plymouth estate planning attorneys understand that there is some confusion about the different types of powers of attorney (POA) and their designations. In Michigan, the scope and limitations of a POA are defined by state law and the specific terms outlined in the POA document. Here, our Wayne County lawyers discuss the scope and limitations of each type of POA, so our clients can make informed decisions about their designations. What is the Scope of a Power of Attorney in Michigan A power of attorney is a legal document that grants an individual (the "agent" or "attorney-in-fact") the authority to act on behalf of another person (the "principal") in specified or broad matters, depending on the type of POA. The purpose of a POA is to allow the agent to make decisions and perform tasks on behalf of the principal, particularly when the principal cannot do so themselves due to absence, illness, or incapacity. The different types of POA and their scopes include: General Power of Attorney: Grants broad authority to the agent to handle various matters, including financial and legal affairs. Limited Power of Attorney: Grants specific authority to the agent for certain tasks or periods. Durable Power of Attorney: Remains in effect even if the principal becomes incapacitated. This type is often used for long-term planning. Springing Power of Attorney: Becomes effective only upon a specified event, such as the principal's incapacitation. Healthcare Power of Attorney (Patient Advocate Designation): Authorizes the agent to make medical and healthcare decisions on behalf of the principal. Understanding the definition and elements of a Power of Attorney in Michigan helps ensure it is used effectively to manage the principal's affairs according to their wishes. What are the Limitations of a Power of Attorney in Michigan? Limitations on powers of attorney in Michigan are essential to protecting the principal's interests and well-being. These restrictions ensure that the agent acts within the bounds of the authority explicitly granted, thereby preventing potential abuse or misuse of power. The fundamental limitations of POA include: Principal's Capacity: The principal must have the legal capacity to understand the nature and consequences of the POA at the time of its creation. If the principal is not mentally competent, the POA is not valid. Specified Powers: The agent can only act within the powers explicitly granted in the POA document. Any action beyond these specified powers is not authorized. Restricted Actions: The POA document may include specific restrictions or limitations on the agent's authority. Best Interests: The agent has a fiduciary duty to act in the principal's best interest. This includes acting with honesty, integrity, and loyalty. Avoiding Conflicts of Interest: The agent must avoid conflicts of interest and cannot use the principal's assets for personal gain. Principal's Right to Revoke: The principal can revoke the POA at any time, provided they are mentally competent. The revocation must be in writing and communicated to the agent and any third parties relying on the POA. Specified Expiration: The POA may include an expiration date or specific conditions under which it will terminate. Incapacity (Non-Durable POA): If the POA is not durable, it terminates if the principal becomes incapacitated. Death of Principal: The POA automatically terminates upon the principal's death, and the agent's authority to act ends immediately. In addition, there are prohibited actions and legal and financial limits. They include: Creating or Revoking a Will: The agent cannot create or revoke a will on behalf of the principal. Voting: The agent cannot vote in public elections on behalf of the principal. Personal Services: The agent cannot perform personal services, such as medical treatments, on behalf of the principal. Third-Party Acceptance: Third parties, such as banks or other financial institutions, may refuse to accept a POA if it does not meet their requirements or if they have doubts about its validity. State-Specific Forms: Michigan has specific forms and requirements for certain types of POAs, particularly those involving real estate transactions. A court can intervene if there is evidence that the agent is not acting in the principal's best interest. Family members or other interested parties can petition the court to review the agent's actions and potentially remove the agent if misconduct is found. If a court appoints a guardian or conservator for the principal, the POA may be terminated, or the agent's powers may be limited. If you already have a POA in place, it is advisable to review it periodically and, if necessary, update the document to ensure it reflects your current wishes and circumstances. When drafting or updating a POA, consulting with an attorney can ensure it meets legal requirements and clearly outlines the intended scope and limitations. We can help. Contact Our Skilled Family Lawyers in Plymouth Today Contact our dedicated Plymouth estate planning attorneys today to learn how we create effective and customized legal strategies, including powers of attorney, essential to your and your family's current and future needs.