

INFORMATION PAPER

SUBJECT: Powers of Attorney

1. **PURPOSE:** To provide Legal Assistance clients with information regarding a power of attorney.

2. **FACTS:**

a. A Power of Attorney (POA) is one of the strongest legal documents that an individual can give to another person. A POA is a document authorizing a designated person to act on your behalf. This person is called your agent or attorney-in-fact. A POA is generally used when you are not available to personally take care of your affairs. Acts performed by your agent or attorney-in-fact as designated by your POA are legally binding on you. Thus, a POA should only be used when absolutely necessary. Your agent should be mature, able to exercise good judgment, and be intelligent. **PLEASE NOTE** that third parties (banks, business, etc.) **DO NOT** have to accept or acknowledge your POA. It is totally within their discretion to do so. However, the majority of persons, businesses and institutions will accept your POA. Check with a particular business or financial institution **BEFORE** obtaining or using a POA to be sure that it will be accepted.

b. General Power of Attorney (GPOA). A GPOA authorizes your agent to act for you in virtually any matter, to include the following:

- . Access to any banking, checking, safety deposit box, or other accounts.
- . Ability to borrow money in your name (i.e., signature loans).
- . Ability to use your credit account to incur additional bills in your name only.
- . Ability to sell or mortgage your property.
- . Ability to sign any kind of contract in your name.

This type of POA is rarely needed and usually not recommended because it can easily be misused by an agent. This POA gives your agent the "power" to make almost any decision on your behalf. You may only find out about the decision when it is too late to change the obligation. A GPOA should only be given in a case where prolonged absence or unavailability is anticipated and actions to protect your property or family's welfare are likely to be necessary. As a rule, you should almost never grant a GPOA if a special POA will be sufficient. However, a GPOA to your spouse for a limited period of time is often useful.

c. Special Power of Attorney (SPOA). A SPOA authorizes your agent to perform a certain specified act. The following are examples:

- . Sell or ship your automobile
- . Ship or receive household goods

- . Cash your paycheck or tax return
- . Authorize medical care for children in your absence

A SPOA is usually preferable to a GPOA because it is limited in scope. It can help protect you against an error in judgment or dishonesty by your agent.

d. Safeguarding your POA.

- . Never have a POA unless you need one.
- . If you feel you might need a power of attorney, but are not certain, have one prepared but do not sign it until you need it.
- . Always put an expiration date on your POA; **never** make a power of attorney that lasts **indefinitely**.
- . Make sure your expiration date is for a fairly short period of time. The policy of this office is to limit two (2) years.
- . Never use a GPOA where a SPOA will do.

e. Expiration and Revocation of a POA.

Your POA automatically terminates:

- . Upon your death
- . Upon the death of your agent
- . On the expiration date specified in the POA, or
- . When you revoke the POA

You can revoke a POA by:

- . Destroying the original and all copies,
- . Informing your agent of the revocation, or
- . Preparing and executing a Revocation of Power of Attorney and giving a copy of the revocation to any person that might deal or might have dealt with the person to whom you gave your POA.

f. Making a POA. POAs are available on a walk-in basis at the Fort Myer Legal Assistance Office. The POA should be signed before a notary or someone authorized to administer oaths.

g. How to sign using a power of attorney.

Your attorney-in-fact, your agent, will sign for you, using the power of attorney as follows:

- . 1. **signature** (of your attorney-in-fact or agent)
- . 2. **"attorney-in-fact for (your name)"**