

Power of Attorney

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Overview

Most people assume their spouse or adult child can step in and manage their finances if something happens. That assumption is wrong. Without a properly executed power of attorney, no family member has automatic legal authority to access your bank accounts, manage your investments, or handle a real estate closing on your behalf. The alternative is a conservatorship proceeding in the Probate and Family Court, a process that costs thousands of dollars, takes months, and places decision-making authority in the hands of a judge rather than the person you would have chosen.

Cohen Cleary drafts durable financial powers of attorney that give your designated agent clear, enforceable authority to act on your behalf when you cannot act for yourself. We structure each document to reflect the scope of authority you intend to grant, the circumstances under which that authority activates, and the practical requirements that financial institutions will impose when your agent presents the document.

How We Help Clients Create Durable Powers of Attorney

Every power of attorney begins with a conversation about what you need the document to accomplish and who you trust to carry it out.

Durable vs. Non-Durable Powers

A standard power of attorney terminates if you become incapacitated. A durable power of attorney survives incapacity, which is precisely when most clients need it. We draft durable instruments by default and explain why the distinction matters.

Immediate vs. Springing Powers

An immediate power of attorney takes effect upon execution. A springing power activates only when a triggering condition occurs, typically a physician's determination of incapacity. We help clients evaluate the tradeoffs, because springing powers can create verification delays when time-sensitive decisions arise.

Broad vs. Limited Authority

Some clients need comprehensive financial management authority for their agent. Others need a limited power for a specific transaction, such as a real estate closing during extended travel. We tailor the scope to match the purpose.

Agent Selection Guidance

Choosing the right agent is as important as drafting the document. We counsel clients on agent qualifications, successor agent designations, and the practical implications of naming co-agents.

Third-Party Acceptance

Banks, brokerage firms, and title companies routinely scrutinize powers of attorney before accepting them. We draft documents with institutional acceptance in mind, addressing the language and formatting requirements that reduce rejection risk.

Why Clients Choose Cohen Cleary

At Cohen Cleary, our practice teams combine deep subject-matter experience with disciplined execution and responsive client service. We do not take a one-size-fits-all approach. Every matter is handled with careful preparation, clear communication, and a strategy tailored to the client's goals and the realities of the forum.

Clients choose Cohen Cleary because we deliver:

Practice-Focused Legal Experience

Our attorneys work in defined practice areas, allowing us to develop practical insight into the legal, procedural, and regulatory nuances that matter most in each case. This focus allows us to anticipate issues, avoid unnecessary delays, and position matters for efficient resolution.

Clear Guidance and Proactive Communication

We prioritize clarity at every stage. Clients receive straightforward explanations of their options, timely updates on developments, and practical advice grounded in real-world outcomes.

Strategic Advocacy with Trial Readiness

Whether a matter calls for negotiation, mediation, or litigation, our attorneys prepare every case with discipline and foresight. We pursue efficient resolution when possible and are fully prepared to advocate aggressively when necessary to protect our clients' interests.

Regional Knowledge and Local Presence

With offices throughout Massachusetts and experience across New England courts and agencies, we bring local insight and regional reach to every matter.

Client-Centered Service

We treat every matter with urgency and respect. Our clients rely on us for responsive service, sound judgment, and steady counsel through complex legal challenges.

In our estate planning work, this approach helps clients establish clear lines of authority and protection well before a crisis demands it.

Drafting a Power of Attorney That Works When It Matters

A power of attorney that does not survive incapacity is useless precisely when you need it most. Massachusetts distinguishes between standard and durable powers, and the wrong form means your family may need a court-appointed conservator to manage your affairs. We tell our clients that the document sitting in a drawer matters less than whether it was drafted to function under the conditions that will exist when someone tries to use it. Our approach integrates each power of attorney into the client's broader estate plan, coordinating with health care proxies, trusts, and beneficiary designations to eliminate gaps.

Serving Clients Across Massachusetts and Rhode Island

Cohen Cleary's estate planning attorneys draft powers of attorney from our offices in [Taunton](#) and [Plymouth](#), serving clients throughout southeastern Massachusetts and across the Commonwealth. Massachusetts has specific execution requirements for powers of attorney, and the Probate and Family Court departments in Bristol, Plymouth, and Norfolk Counties each maintain their own procedural expectations when disputes arise. Our familiarity with these requirements ensures that every document meets both statutory standards and the practical scrutiny financial institutions apply. We also represent clients in Rhode Island, with capacity to serve individuals and families throughout New England.

Schedule a Power of Attorney Consultation

The right time to establish a power of attorney is before you need one. Contact Cohen Cleary to create a power of attorney that reflects your planning goals, designates the right agent, and protects your financial interests.

Frequently Asked Questions About Powers of Attorney

What is the difference between a durable and non-durable power of attorney in Massachusetts?

A non-durable power of attorney terminates if the principal becomes incapacitated. A durable power of attorney, sometimes called a durable POA, remains effective even after the principal loses the ability to make decisions. For most estate planning purposes, a durable power is essential because incapacity is the most common scenario in which a family member needs authority to act. Without the durability provision, the document fails at the moment it becomes most critical.

Can my agent do anything they want with a power of attorney?

No. An agent under a power of attorney is a fiduciary, legally obligated to act in the principal's best interest. The document defines the scope of authority, and certain actions (such as making gifts or changing beneficiary designations) require specific authorization. An agent who exceeds their authority or acts in self-interest can face legal liability.

Does a power of attorney remain effective after death?

No. A power of attorney terminates at the principal's death, regardless of whether it is durable. Legal authority to manage the decedent's affairs then passes to the personal representative appointed under the will (or by the court if there is no will). Families who rely on a POA after death risk unauthorized transactions that may need to be unwound during probate.

What happens if I become incapacitated without a power of attorney?

If no valid power of attorney exists, a family member or other interested party must petition the Probate and Family Court for appointment as conservator. This process requires medical evidence of incapacity, court filing fees, potential bond requirements, and ongoing judicial oversight. A conservatorship is more expensive, more time-consuming, and less private than a properly drafted power of attorney.