

## **OCTOBER 2025 NEWSLETTER**

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## **UNCONVENTIONAL USES OF POWERS OF ATTORNEY**

**The August 2025 Probate and Trust Law Newsletter of the Philadelphia Bar Association published the following article by Attorney K. Thackray on the unconventional uses of Powers of Attorney.**

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In estate planning most clients arrive at our offices seeking “the usual”, that is, they’re looking for a Will, maybe a revocable trust, and some health care and financial powers of attorney. These are the estate planning tools for which our work is most well-known, and they are often considered a one-size-fits-all solution to help our clients with their planning. But occasionally a client will present with a unique challenge or problem for us to solve. These problems can arise as a result of the client’s careers or their personal circumstances, and give us as estate planners the opportunity to move beyond our usual forms and think outside the box. One area in which our creativity can be put to good use is through the unconventional use of powers of attorney.

Powers of attorney are most commonly associated with financial or medical decision-making.

Often, we think of these documents as being useful only in old age or upon the incapacity of the principal. However, it is important to recall that these documents can be used to allow anyone to step into the legal shoes of any sui juris adult with capacity to sign a power of attorney, and under many circumstances. Unlike a general power of attorney, which grants broad authority to the named agent, a special or limited power of attorney can be narrowly tailored to grant the agent the authority to handle a specific task on behalf of the principal.

One often-overlooked opportunity for a power of attorney arises when clients send their newly minted young adult children off to college. Once a child turns eighteen, the parents no longer have automatic access to their child's health or financial information, even in emergencies. A well-crafted durable or limited power of attorney can authorize parents to handle basic matters such as tuition payments, lease signings or scheduling medical appointments. For estate planning attorneys, being aware of the age of your client's children and raising this as a potential opportunity for their family's planning (being mindful of any conflicts of interest) can be a meaningful way to add value to your relationship with your clients.

Another departure from the standard general power of attorney instrument is a customized instrument designating an agent to handle matters related to one's business or professional practice. These powers of attorney- separate from the general power of attorney- can be critical in keeping a business owner's livelihood afloat in the event of an unexpected emergency. In particular, a special power of attorney for one's professional life allows the principal to appoint the right person for the job. Consider that the person who is best suited to be one's general power of attorney- a spouse or a child- is not necessarily the same person who is most qualified to step into the principal's work boots. With a special power of attorney for a professional practice, the principal can appoint someone who is familiar with the business's operations, network of contacts, billing practices and the like.

Powers of attorney can also come in handy for other unique circumstances in which the principal simply cannot be present. We are all familiar with granting a limited power of attorney for a real estate closing. But consider other opportunities in which it may not be ideal for the principal to be present. For example, folks working overseas may find themselves receiving a notice requiring their physical presence when such presence is simply not feasible. A recent example included the contents a safe deposit box that was about to escheat to the estate, unless the principal could claim the physical contents by a very close deadline. Other concerns an author working abroad who needed to grant her literary agent the power to sign publishing contracts and negotiate rights on her behalf. Consider also a professional leaving on maternity leave, who could reasonably name an agent to act on her behalf while she cares for her newborn child. A well-drafted limited power of attorney allows another trusted individual to act as boots on the ground, saving them the time and hassle of needing to appear in person when another person is readily able to step in.

These unconventional uses of a power of attorney illustrate the versatility and practicality of these powerful documents. As estate planners, we should remain mindful of these options so that we can propose solutions to our clients in need. Even where there is not an imminent need, it is worth educating our clients about the versatile nature of these documents, so that-should a problem arise- they know that we are a resource who can help. When drafted carefully and with precision,

a power of attorney instrument can go beyond the generic nature of the general power of attorney and offer our clients a practical solution.

We hope this information is helpful. If you would like more details about these areas or any other aspect of trust or estate law, please do not hesitate to contact us.

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