



Legacy Seminar Power of Attorney


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Recap of Part One



Power Of Attorney



1. **What is a power of attorney:** It is the signed and dated document by the principal, notarized signature or witnessed. Witnesses cannot be care provider for the principal nor caregiver at the adult family home or long-term care facility in which the principal resides.

2. **Power of Attorney:** Since 2017 in Washington state, a power of attorney has to be notarized or witnessed. This came about as a result of nursing home abuses of elderly.

3. **Power of attorney grants authority to an agent to act in the place of the principal.** What is a principal: the individual who grants authority to an agent in the power of attorney.




4. What is a principal: the individual who grants authority to an agent in the power of attorney.

5. Types of power of attorney:

a) specific power of attorney; b) general power of attorney; and c) durable power of attorney.

6. Specific power of attorney is as the name suggests it's for specific objective. Example given authorization to sign legal documents.




7. General power of attorney is as a type of power of attorney that you grant somebody to act on your behalf over various events.

8. A durable power of attorney is probably the one you're most familiar with where this has medical authorization. POA is effective on either the notification of disability of the principal or it could take effect immediately. Taking effect upon disability requires evidence from your physician describing the disability or incapacity.




Termination of Power of Attorney

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- 1) principal dies;
 - 2) principal becomes incapacitated, if the power of attorney is not durable;
 - 3) principal revokes it;
 - 4) power of attorney provides for termination;
 - 5) purpose is accomplished; and
 - 6) the principal revokes the agent's authority or the agent dies, becomes incapacitated, or resigns, and his power of attorney does not provide for another agent to act under the power of attorney.

A durable power of attorney stays in effect if the principal becomes incapacitated or unable to handle matters on her own.



Living Will/Physicians' Directive



1. Living wills and other advance directives are written, legal instructions regarding your preferences for medical care if you are unable to make decisions for yourself. Advance directives guide choices for doctors and caregivers if you're terminally ill, seriously injured, in a coma, in the late stages of dementia or near the end of life.

2. A living will make your wishes known via a written statement, but by itself does not appoint a person to act on your behalf and make those decisions.



3. It does not distribute your assets.

4. Keep your living will on file with your medical providers;
MD, hospital.



What is Probate?

What is probate?

1. It is the legal process in which the will is accepted into the court.
2. The court grants in order admitting the Will to probate and appoints the personal representative
3. Court grants letter of testamentary (see above sample of a letter testamentary)

Probate includes:

1. Proven validity of the will;
2. Identifying beneficiaries entitled to distribution from the estate;
3. Gathering the assets of the decedent subject to probate process;
4. Identifying potential creditors;
5. Resolving challenges to invalidity of the will;
6. Paying taxes and debts; and
7. Distributing the remainder of the decedent's assets according to the will are laws of ascendancy.

When is Probate Necessary:

1. Value of decedent estate is in excess of \$100,000, (estates under \$100,000 you would file an affidavit of small estate) see above sample affidavit of small estate form;
2. Decedent's estate is composed of real estate;
3. Appointment of a legal representative is necessary to prosecute a claim on behalf of the decedent such as the wrongful death action.

SMALL ESTATE AFFIDAVIT

STATE OF WASHINGTON)

)

COUNTY OF KING)

Having been sworn under oath, I, _____, execute this Small Estate Affidavit as a Successor, as defined by RCW 11.62.005, of the Decedent _____, and declare as follows:

1. A true and correct copy of the death certificate of _____ is attached to this Affidavit as **Exhibit A**.

2. _____ passed away on _____, 20____. Forty or more days have elapsed since his/her death.

3. _____ was a resident of the State of Washington at the time of death.

4. No application or petition for the appointment of a Personal Representative is pending or has been granted in any jurisdiction.

5. The value of the Decedent's entire estate subject to probate, wherever located, less liens and encumbrances, does not exceed one hundred thousand dollars (\$100,000.00).

6. All of the Decedent's debts, including funeral expenses, have been paid or provided for.

7. My name is _____ and my address is: _____.

8. **Option 1:** There are _____ other Successors, as that term is defined in RCW 11.62.005. I have given them written notice, by personal service or mail, identifying my claim and describing the property claimed. At least ten (10) days have elapsed since the service or mailing of such notice. **Option 2:** I am the only claimed successor.

9. **Option 1:** I am personally entitled to full payment or delivery of the property claimed on behalf and with the written authority of all other claiming Successors. **Option 2:** I am personally entitled to full payment or delivery of the property claimed.

10. **The property claimed is any and all funds of the Decedent _____ held at _____, including but not limited to funds held in account # _____.**

Print name: _____

SIGNED AND SWORN to before me on this _____ day of _____, 20____

Printed Name: _____

NOTARY PUBLIC in and for the State of
Washington, Residing at: _____

My Commission expires: _____



Letter of Testamentary

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

IN THE MATTER OF THE ESTATE OF

Case No. 19-4-00000-1 KNT

JANE DOE,

Deceased.

LETTERS TESTAMENTARY

STATE OF WASHINGTON)

) ss.

County of KING)

WHEREAS, the last Will and Testament of JANE DOE, deceased, was, on the 1ST day of, January 2019, duly exhibited, proven, and recorded in our said Superior Court, and whereas it appears in and by said Will that JACK DOE is appointed Personal Representative thereon, and whereas said JACK DOE has duly qualified; **now, therefore,**

KNOW ALL MEN BY THESE PRESENTS, that we do hereby authorize the said JANE DOE to **execute said Will according to law.**

WITNESS my hand and the seal of said Court this 1ST day of January 2019.

Official Seal

Clerk of said Superior Court

Deputy

STATE OF WASHINGTON)
) ss.
County of)

I, _____, County Clerk and Clerk of the above-entitled Court, do hereby certify that the foregoing Letters Testamentary have been by me duly recorded as required by law, and that the above LETTERS TESTAMENTARY is a true and correct copy of the original on file and recorded in this office, AND THAT THE SAME ARE STILL OF FULL FORCE AND EFFECT.

IN WITNESS WHEREOF, I have hereunto set my hand and official Seal of the above-entitled Court this day of January _____.

Clerk of said Superior Court

