

How does a **Power of Attorney (POA)** differ from a **Health Care Power of Attorney (HCPOA)** in North Carolina?

POA	HCPOA
<ul style="list-style-type: none"> • A durable power of attorney is a power of attorney by which a person designates another person his attorney-in-fact in writing. It should include words such as “This power of attorney shall not be affected by my subsequent incapacity or mental incompetence” or “This power of attorney shall become effective after I become incapacitated or mentally incompetent,” or other words showing intent. • May contain any provisions relating to the rights, powers, duties, and responsibilities of the attorney-in-fact. • The Short Form Power of Attorney includes power over transactions related to real property, personal property, insurance, estate, banking, business operations, investments, benefits, and taxes, as well as power relating to personal relationships and affairs. It is a broad sweeping power. • Becomes effective when the person becomes incapacitated or mentally incompetent. • Revoked at the death of the principal, by a method provided for in the power of attorney, the document being burnt, torn, canceled, obliterated, or destroyed, with intent and for the purpose of revoking it by the principal or another person at his discretion, while not incapacitated, or subsequent written revocatory document. • Any person to whom a power of attorney is presented is entitled to rely on an affidavit, in the absence of actual knowledge to the contrary. • Covered entities may disclose protected health information pursuant to a valid authorization subject to few limitations under HIPAA. • Governed by North Carolina General Statute Chapter 32A Article 2 	<ul style="list-style-type: none"> • A health care power of attorney is a power of attorney by which a person appoints another person his attorney-in-fact or agent in matters relating to health care. Any person having understanding and capacity to make and communicate health care decisions and is 18 or older may serve as a health care power of attorney. • The health care power of attorney may contain provisions relating to the rights, powers, duties, and responsibilities. The statutory extent of authority grants the attorney-in-fact the power to withhold or discontinue life-prolonging measures and mental health treatment, as well as the authority to make anatomical gifts, to decide whether an autopsy should be done, and how to dispose of the remains. The authority of the attorney-in-fact may or may not be overridden by the execution of an advanced directive. • Becomes effective when it is determined that the patient lacks sufficient understanding or capacity to make or communicate decisions relating to his/her health care. The authority continues during the incapacity. • The authority of the health care power of attorney is revoked at the death of the patient. It may also be revoked by the patient at any time as long as the patient is capable of making and communicating health care decisions. A divorce or separation will serve to revoke the authority of a former spouse who is named health care attorney-in-fact. • A health care provider will not be subject to criminal prosecution, civil liability, or professional disciplinary for actions taken in good faith relying on the decision of the health care attorney-in-fact or an advanced directive. • Covered entities may disclose protected health information to a personal representative as they would to the individual under HIPAA. A person who has authority under applicable law to act on behalf of an individual in making health care decisions should be treated as a personal representative. • Governed by North Carolina General Statute Chapter 32A Article 3