

457.090 When power of attorney effective.

- (1) A power of attorney is effective when executed unless the principal provides in the power of attorney that it becomes effective at a future date or upon the occurrence of a future event or contingency.
- (2) If a power of attorney becomes effective upon the occurrence of a future event or contingency, the principal, in the power of attorney, may authorize one (1) or more persons to determine in a writing or other record that the event or contingency has occurred.
- (3) If a power of attorney becomes effective upon the principal's incapacity and the principal has not authorized a person to determine whether the principal is incapacitated, or the person authorized is unable or unwilling to make the determination, the power of attorney becomes effective upon a determination in a writing or other record by:
 - (a) A physician, an advanced practice registered nurse, a psychologist licensed or certified under the provisions of KRS Chapter 319, or a person licensed or certified as a social worker or an employee of the Cabinet for Health and Family Services who meets the qualifications of KRS 335.080(1)(a), (b), and (c) or 335.090(1)(a), (b), and (c), that the principal is incapacitated within the meaning of KRS 457.020(5)(a); or
 - (b) An attorney-at-law or a judge that the principal is incapacitated within the meaning of KRS 457.020(5)(b).
- (4) A person authorized by the principal in the power of attorney to determine that the principal is incapacitated may act as the principal's personal representative pursuant to the Health Insurance Portability and Accountability Act, Sections 1171 to 1179 of the Social Security Act, 42 U.S.C. sec. 1320d, as amended, and applicable regulations, to obtain access to the principal's health-care information and communicate with the principal's health-care provider for the sole purpose of determining whether the principal is incapacitated, unless the power of attorney otherwise provides.

Effective: July 14, 2018

History: Created 2018 Ky. Acts ch. 185, sec. 9, effective July 14, 2018.