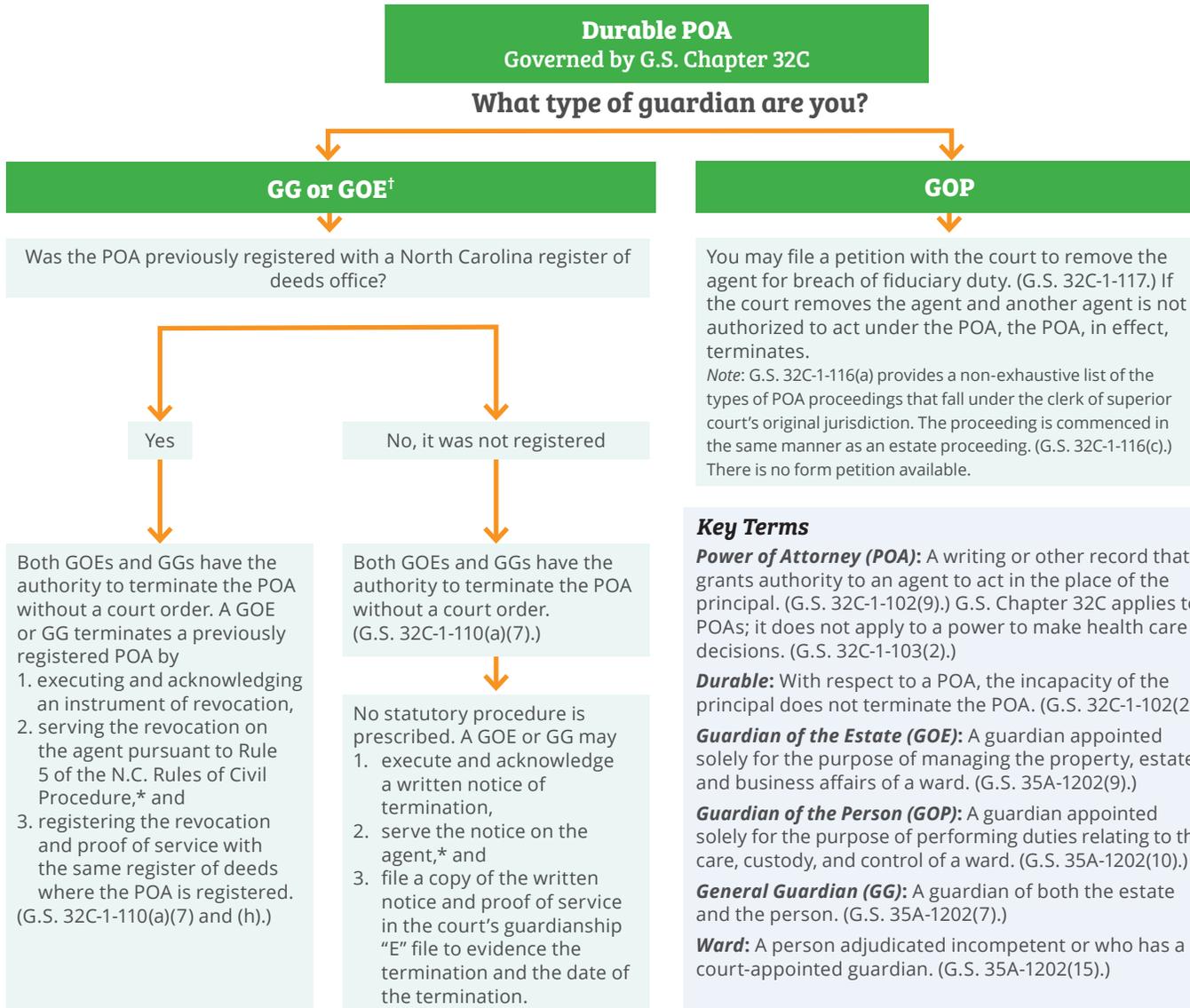


You've been appointed guardian and the ward has a **Durable Power of Attorney (POA)**

How do I terminate the POA?



I want information from the agent.

Scenario: A guardian is appointed by the clerk. The guardian is not the same as the agent under the durable POA governed by G.S. Chapter 32C. The guardian wants information from the agent related to the agent's actions on behalf of the principal pursuant to the POA, including in connection with concerns that the agent misused the principal's property.

Law: After the appointment of a **GOE** or **GG**, the agent is accountable to the GOE or GG. (G.S. 32C-1-108(b).) GOEs and GGs have the right to request, and the agent has a duty to disclose, receipts, disbursements, and transactions conducted on behalf of the principal, unless the POA provides otherwise. (G.S. 32C-1-114(h).) If the agent fails to respond to the GOE's or GG's request, the GOE or GG may file a petition initiating a POA proceeding to compel an accounting by the agent before the clerk of superior court. (G.S. 32C-1-116.) The proceeding is commenced in the same manner as an estate proceeding. (G.S. 32C-1-116(c).) There is no form petition available. The clerk's order to compel may include an order compelling the production of evidence substantiating any expenditure made by the agent from the principal's assets. (G.S. 32C-1-116(a)(1).)

A **GOP** does not have the right to request disclosure of receipts, disbursements, and transactions from the agent. However, the GOP does have standing to file a proceeding seeking a court order compelling an accounting by the agent under G.S. 32C-1-116(a) and (c). The proceeding is commenced in the same manner as an estate proceeding. (G.S. 32C-1-116(c).) There is no form petition available.

*Termination of an agent's authority is not effective as to the agent or as to another person who, without actual knowledge of the termination, acts in good faith. (G.S. 32C-1-110(d).)

† GG and GOE includes an interim GOE and interim GG to the extent authorized by the clerk in the order appointing the interim guardian.

You've been appointed guardian and the ward has a **Health Care Power of Attorney (Health Care POA)**

How do I suspend the health care agent's authority?

Health Care POA
Governed by G.S. Chapter 32A-15 to -27

What type of guardian are you?

GG or GOP

You may petition the court to suspend the authority of the health care agent during the guardianship. (G.S. 32A-22(a).)
Note: There is no form petition available.

You must give notice of the petition to the health care agent. (G.S. 32A-22(a).)
Note: The statute does not specify how notice must be given.

The court may order a health care POA suspended for good cause shown. The order must

- direct whether the GG or GOP shall act consistently with the health care POA or whether and in what respect the GG or GOP may deviate from it and
- contain findings of fact and conclusions of law.

(G.S. 32A-22(a).)

GOE

You have no authority under G.S. 32A-22 to terminate or suspend the health care POA.

Note: If a GOE has concerns about abuse by an agent under a health care POA, the person may file a motion in the cause in the guardianship proceeding requesting that the court modify the guardianship to appoint a GG or GOP. The GG or GOP may then petition the court to suspend the authority of the health care agent during the guardianship.

Key Terms

Health Care Power of Attorney (Health Care POA): A written instrument signed in the presence of two qualified witnesses, and acknowledged before a notary public, pursuant to which an attorney-in-fact or agent is appointed to act for the principal in matters relating to the health care of the principal. (G.S. 32A-16(3).)

Guardian of the Estate (GOE): A guardian appointed solely for the purpose of managing the property, estate, and business affairs of a ward. (G.S. 35A-1202(9).)

Guardian of the Person (GOP): A guardian appointed solely for the purpose of performing duties relating to the care, custody, and control of a ward. (G.S. 35A-1202(10).)

General Guardian (GG): A guardian of both the estate and the person. (G.S. 35A-1202(7).)

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