Requirements for signing, witnessing, and notarizing

In Michigan, the requirements for signing, witnessing, and notarizing for a Medical Power of Attorney (POA), Financial Power of Attorney, Will, and Trust vary based on state law and the specific document. Below, I outline the requirements for each document, including whether addresses of signatories or witnesses are legally required, based on Michigan Compiled Laws (MCL) and general estate planning practices. Note that while addresses are typically not required by law, including them can be practical for future verification or probate purposes.

1. Medical Power of Attorney (Durable Power of Attorney for Healthcare)
A Medical Power of Attorney in Michigan allows an individual (the principal) to appoint an agent to make healthcare decisions on their behalf if they become incapacitated.

- **Signing/Witnessing Requirements:**
- The document must be signed by the principal.
- It must be witnessed by **two competent adult witnesses who are not:**
- The principal's spouse, parent, child, or grandchild.
- The designated agent or successor agent.
- The principal's healthcare provider or an employee of the healthcare provider.
- Financially responsible for the principal's healthcare.
- Witnesses must sign the document in the presence of the principal.
- Per MCL 700.5501, the witnesses must attest that the principal signed the document voluntarily and appears to be of sound mind.

- **Notarization:**
- Notarization is **not required by Michigan law for a Medical Power of Attorney to be valid, but it is often recommended to enhance the document's credibility and acceptance by third parties (e.g., hospitals).**

- **Addresses:**
- Michigan law does not require the witnesses' or principal's addresses to be included in the Medical Power of Attorney.
- Including addresses is a common practice to facilitate locating

witnesses if the document's validity is questioned, but it is not a legal requirement.

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2. Financial Power of Attorney
A Financial Power of Attorney in Michigan allows an individual to appoint an agent to manage their financial affairs. A "durable" Financial POA remains effective even if the principal becomes incapacitated.

- **Signing/Witnessing Requirements**:
  - The document must be signed by the principal.
  - Under MCL 700.5501, a Financial Power of Attorney does **not require witnesses** unless specified by the principal or their attorney. However:
    - If the POA is intended to be durable (effective after incapacity), it must explicitly state that it is not affected by the principal's disability or incapacity.
  - While witnesses are not legally required, some institutions (e.g., banks) may prefer or require witnessed or notarized documents for their records.

- **Notarization**:
  - Michigan law **requires notarization** for a Financial Power of Attorney to be legally valid (MCL 700.5501(2)). The notary must verify the principal's signature.
  - Without notarization, the document may not be recognized by financial institutions or courts.

- **Addresses**:
  - There is no legal requirement to include the principal's, agent's, or notary's address in the Financial Power of Attorney.
  - Including addresses is optional but can be useful for record-keeping or if disputes arise.

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3. Will
A Last Will and Testament in Michigan directs how a person's assets are distributed after their death.

- **Signing/Witnessing Requirements**:
  - Per MCL 700.2502, a will must be:

- In writing.
- Signed by the testator (or by another person in the testator's conscious presence and at their direction).
- Signed by **at least two witnesses who either:**
- Observed the testator sign the will, or
- Heard the testator acknowledge their signature or the will itself.
- Witnesses must sign the will in the testator's presence, typically within a reasonable time after witnessing the signing or acknowledgment.
- Witnesses should be disinterested (not beneficiaries of the will) to avoid potential challenges to the will's validity, though Michigan law does not strictly prohibit interested witnesses.

- **Notarization:**
- Notarization is **not required for a will to be valid in Michigan.**
- However, a will can be made "self-proving" by including a notarized affidavit signed by the testator and witnesses. This affidavit (per MCL 700.2504) simplifies probate by allowing the court to accept the will without contacting the witnesses.

- **Addresses:**
- Michigan law does **not require the addresses of the testator or witnesses to be included in the will.**
- Including witnesses' addresses is a common practice to assist in locating them if the will's validity is challenged during probate, but it is not legally mandated.

4. Trust (Revocable Living Trust)
A Revocable Living Trust in Michigan allows an individual (the grantor) to manage and distribute assets during their lifetime and after death, often avoiding probate.

- **Signing/Witnessing Requirements:**
- Michigan law (MCL 700.7401) does not explicitly require witnesses for a trust to be valid. The trust must be:
- Created by a written document.
- Signed by the grantor (the person creating the trust) or their authorized representative.
- Witnesses are not required by statute, but some attorneys include witnesses to strengthen the document's validity, especially if it may be

challenged.
  - If real property (e.g., real estate) is being transferred into the trust, a deed must be executed, which typically requires witnesses (see below for notarization).

- **Notarization**:
  - Notarization is **not required** for the trust document itself to be valid under Michigan law.
  - However, if the trust involves the transfer of real property, the deed transferring property into the trust must be notarized to be recorded with the county register of deeds (MCL 565.201).
  - Many attorneys recommend notarizing the trust document to enhance its credibility and ensure acceptance by financial institutions or courts.

- **Addresses**:
  - Michigan law does **not require** the grantor's, trustee's, or notary's addresses to be included in the trust document.
  - As with other documents, including addresses can be helpful for administrative purposes but is not legally required.

Summary Table

Document	**Signing Requirement**	**Witnessing Requirement**	**Notarization Requirement**	**Addresses Required?**
Medical POA	Signed by principal	2 witnesses (specific restrictions apply)	Not required, but recommended	No, but optional
Financial POA	Signed by principal	Not required	Required	No, but optional
Will	Signed by testator	2 witnesses	Not required (optional for self-proving)	No, but optional
Trust	Signed by grantor	Not required	Not required (required for deeds)	No, but optional

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Additional Notes

- **Addresses**: While not legally required for any of these documents, including addresses for signatories, witnesses, or notaries can simplify future verification, especially in probate or legal disputes. This is a practical choice often recommended by estate planning professionals.
- **Best Practices**: Consult a Michigan estate planning attorney to ensure compliance with current laws and to tailor documents to your specific needs. Some institutions (e.g., banks, hospitals) may impose additional requirements (like notarization or witnesses) beyond state law for their own policies.
- **Self-Proving Affidavits**: For wills, a notarized self-proving affidavit can streamline probate. This involves the testator and witnesses signing a statement before a notary, attesting to the will's proper execution.
- **Real Property Transfers**: For trusts involving real estate, ensure deeds are properly executed, witnessed (if required by the county), and notarized for recording purposes.