

# **WEST VIRGINIA DURABLE POWER OF ATTORNEY**

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## **IMPORTANT INFORMATION**

This power of attorney authorizes another person(s) (your agent) to make decisions concerning your property for you (the principal). Your agent(s) will be able to make decisions and act with respect to your property (including your money) whether or not you are able to act for yourself. The meaning of authority over subjects listed on this form is explained in the Uniform Power of Attorney Act, § 39B-1-101 et seq. of this code.

This power of attorney does not authorize the agent(s) to make health-care decisions for you.

You should select someone you trust to serve as your agent(s). Unless you specify otherwise, generally the agent's authority will continue until you die or revoke the power of attorney or the agent(s) resigns or is unable to act for you.

Your agent(s) is entitled to reasonable compensation unless you state otherwise in the special instructions.

If your agent is unable or unwilling to act for you, your power of attorney will end unless you have named a successor agent. You may also name a second successor agent.

**If you have questions about the power of attorney or the authority you are granting to your agent(s), you should seek legal advice before signing this form.**

## **DESIGNATION OF AGENT(S)**

I \_\_\_\_\_ [Name of Principal] name the following person as my agent:

Name of Agent: \_\_\_\_\_  
Agent's Address: \_\_\_\_\_  
Agent's Telephone Number: \_\_\_\_\_

(If applicable)

I also name the following person as my co-agent:

Name of Co-agent: \_\_\_\_\_  
Co-agent's Address: \_\_\_\_\_  
Co-agent's Telephone Number: \_\_\_\_\_

Agents I designated must act  jointly  separately.

If my agent is unable or unwilling to act for me, I name as my successor agent:

Name of Successor Agent: \_\_\_\_\_  
Successor Agent's Address: \_\_\_\_\_  
Successor Agent's Telephone Number: \_\_\_\_\_

(If applicable)



If my successor agent is unable or unwilling to act for me, I name as my second successor agent:

Name of Second Successor Agent: \_\_\_\_\_

Second Successor Agent's Address: \_\_\_\_\_

Second Successor Agent's Telephone Number: \_\_\_\_\_

(If applicable)

I hereby give notice that I have revoked, and do hereby revoke, any previous power of attorney given or empowering another agent to act as my true and lawful attorney in fact. I declare that all power and authority granted under said power of attorney is hereby revoked and withdrawn.

### **GRANT OF GENERAL AUTHORITY**

I grant my agent(s) and any successor agent(s) general authority to act for me with respect to the following subjects as defined in the Uniform Power of Attorney Act, W. Va. Code § 39B-2-101:

Real Property

Tangible Personal Property

Stocks and Bonds

Commodities and Options

Banks and Other Financial Institutions

Operation of Entity or Business

Insurance and Annuities

Estates, Trusts, and Other Beneficial Interests

Claims and Litigation

Personal and Family Maintenance

Benefits from Governmental Programs or Civil or Military Service

Retirement Plans

Taxes

All Preceding Subjects

### **GRANT OF SPECIFIC AUTHORITY (OPTIONAL)**

My agent(s) MAY NOT do any of the following specific acts for me UNLESS I have INITIALED the specific authority listed below:

Create, amend, revoke, or terminate an inter vivos trust



\_\_\_ Make a gift, subject to the limitations of the West Virginia Uniform Power of Attorney Act and any special instructions in this power of attorney

\_\_\_ Create or change rights of survivorship

\_\_\_ Create or change a beneficiary designation

\_\_\_ Authorize another person to exercise the authority granted under this power of attorney

\_\_\_ Waive the principal's right to be a beneficiary of a joint and survivor annuity, including a survivor benefit under a retirement plan

\_\_\_ Exercise fiduciary powers that the principal has authority to delegate

\_\_\_ Disclaim or refuse an interest in property, including a power of appointment

\_\_\_ Access the content of electronic communications

#### **LIMITATION ON AGENT'S AUTHORITY**

An agent that is not my ancestor, spouse or descendant MAY NOT use my property to benefit the agent or a person to whom the agent owes an obligation of support unless I have included that authority in the Special Instructions.

#### **SPECIAL INSTRUCTIONS (OPTIONAL)**

You may give special instructions on the following lines:

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#### **EFFECTIVE DATE**

This power of attorney is effective immediately.

This power of attorney is effective upon the disability or incapacity of the principal.

This power of attorney is effective upon the occurrence of the following event or contingency:

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#### **TERMINATION**

This power of attorney shall not be affected by my subsequent disability or incapacity, or lapse of time.

#### **NOMINATION OF CONSERVATOR OR GUARDIAN (OPTIONAL)**

If it becomes necessary for a court to appoint a conservator or guardian of my estate or guardian of my person, I nominate the following person(s) for appointment:



Name of Nominee for conservator or guardian of my estate: \_\_\_\_\_

Nominee's Address: \_\_\_\_\_

Nominee's Telephone Number: \_\_\_\_\_

Name of Nominee for guardian of my person: \_\_\_\_\_

Nominee's Address: \_\_\_\_\_

Nominee's Telephone Number: \_\_\_\_\_

**RELIANCE ON THIS POWER OF ATTORNEY**

Any person, including my agent, may rely upon the validity of this power of attorney or a copy of it unless that person knows it has terminated or is invalid.

**SIGNATURE AND ACKNOWLEDGMENT OF PRINCIPAL**

Principal's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

(If applicable)

by:

Representative's Name Printed: \_\_\_\_\_

Representative's Signature \_\_\_\_\_

signing on behalf of:

Principal's Name Printed: \_\_\_\_\_

Principal's Address: \_\_\_\_\_

Principal's Telephone Number: \_\_\_\_\_

**NOTARY PUBLIC**

State of \_\_\_\_\_

County of \_\_\_\_\_

This document was acknowledged before me on \_\_\_\_\_, by \_\_\_\_\_ [Principal/Representative Name].

Signature of Notary \_\_\_\_\_  
(Seal, if any)

My commission expires: \_\_\_\_\_

This document prepared by: \_\_\_\_\_

**IMPORTANT INFORMATION FOR AGENT(S)**



## **Agent's Duties**

When you accept the authority granted under this power of attorney, a special legal relationship is created between you and the principal. This relationship imposes upon you legal duties that continue until you resign or the power of attorney is terminated or revoked. You must:

- (1) Do what you know the principal reasonably expects you to do with the principal's property or, if you do not know the principal's expectations, act in the principal's best interest;
- (2) Act in good faith;
- (3) Do nothing beyond the authority granted in this power of attorney;
- (4) Attempt to preserve the principal's estate plan if you know the plan and preserving the plan in consistent with the principal's best interest;
- (5) Disclose your identity as an agent whenever you act for the principal by writing or printing the name of the principal and signing your own name as "agent" in the following manner:

(Principal's Name) by (Your Signature) as Agent

Unless the Special Instructions in this power of attorney state otherwise, you must also:

- (1) Act loyally for the principal's benefit;
- (2) Avoid conflicts that would impair your ability to act in the principal's best interest;
- (3) Act with care, competence, and diligence;
- (4) Keep a record of all receipts, disbursements, and transactions made on behalf of the principal;
- (5) Cooperate with any person that has authority to make health-care decisions for the principal to do what you know the principal reasonably expects or, if you do not know the principal's expectations, to act in the principal's best interest.

## **Termination of Agent's Authority**

You must stop acting on behalf of the principal if you learn of any event that terminates this power of attorney or your authority under this power of attorney. Events that terminate a power of attorney or your authority to act under a power of attorney include:

- (1) The death of the principal;
- (2) The principal's revocation of the power of attorney or your authority;
- (3) The occurrence of a termination event stated in the power of attorney;
- (4) The purpose of the power of attorney is fully accomplished;
- (5) If you are married to the principal, a legal action is filed with a court to end your marriage, or for your legal separation, unless the Special Instructions in this power of attorney state that such an action will not terminate your authority.

## **Liability of Agent**

The meaning of the authority granted to you is defined in the Uniform Power of Attorney Act, § 39B-1-101 et seq. of this code. If you violate the Uniform Power of Attorney Act, as set forth in § 39B-1-101 et seq. of this code, or act outside the authority granted, you may be liable for any damages caused by your violation.

If there is anything about this document or your duties that you do not understand, you should seek legal advice.

## **AGENT'S CERTIFICATION AS TO THE VALIDITY OF POWER OF ATTORNEY AND AGENT'S AUTHORITY**



State of \_\_\_\_\_  
County of \_\_\_\_\_ ]

I, \_\_\_\_\_, [Agent name], certify under penalty of perjury that  
\_\_\_\_\_ [Principal name] granted me authority as an agent or successor agent  
in a power of attorney dated \_\_\_\_\_.

I, further certify that to my knowledge:

(1) The Principal is alive and has not revoked the power of attorney or my authority to act under the power of attorney and the power of attorney and my authority to act under the power of attorney have not terminated;

(2) If the power of attorney was drafted to become effective upon the happening of an event or contingency, the event or contingency has occurred;

(3) If I was named as a successor agent, the prior agent is no longer able or willing to serve; and

(4) \_\_\_\_\_  
\_\_\_\_\_ [Insert other relevant statements]

(If applicable)

State of \_\_\_\_\_  
County of \_\_\_\_\_

I, \_\_\_\_\_, [Co-agent name], certify under penalty of perjury that  
\_\_\_\_\_ [Principal name] granted me authority as an agent or successor agent  
in a power of attorney dated \_\_\_\_\_.

I, further certify that to my knowledge:

(1) The Principal is alive and has not revoked the power of attorney or my authority to act under the power of attorney and the power of attorney and my authority to act under the power of attorney have not terminated;

(2) If the power of attorney was drafted to become effective upon the happening of an event or contingency, the event or contingency has occurred;

(3) If I was named as a successor agent, the prior agent is no longer able or willing to serve; and

(4) \_\_\_\_\_  
\_\_\_\_\_ [Insert other relevant statements]

### SIGNATURE AND ACKNOWLEDGMENT OF AGENT

Agent's Signature \_\_\_\_\_ Date \_\_\_\_\_  
Agent's Name Printed: \_\_\_\_\_  
Agent's Address: \_\_\_\_\_  
Agent's Telephone Number: \_\_\_\_\_

(If applicable)

Co-agent's Signature \_\_\_\_\_ Date \_\_\_\_\_  
Co-agent's Name Printed: \_\_\_\_\_



Co-agent's Address: \_\_\_\_\_  
Co-agent's Telephone Number: \_\_\_\_\_

**NOTARY PUBLIC**

State of \_\_\_\_\_  
County of \_\_\_\_\_

This document was acknowledged before me on  
\_\_\_\_\_, by \_\_\_\_\_ [Agent name].

Signature of Notary \_\_\_\_\_  
(Seal, if any)

My commission expires: \_\_\_\_\_  
This document prepared by: \_\_\_\_\_

(If applicable)

State of \_\_\_\_\_  
County of \_\_\_\_\_

This document was acknowledged before me on  
\_\_\_\_\_, by \_\_\_\_\_ [Co-agent name].

Signature of Notary \_\_\_\_\_  
(Seal, if any)

My commission expires: \_\_\_\_\_  
This document prepared by: \_\_\_\_\_

