

**COMMITTEE CHANGES TO
ARTICLE 3 OF THE
REVISED UNIFORM DURABLE POWER OF ATTORNEY ACT**

July 13, 2004

[ARTICLE] 3

STATUTORY FORM DURABLE POWER OF ATTORNEY

SECTION 301. OPTIONAL FORM. The following form may be used to create a durable power of attorney that has the meaning and effect prescribed by this [act].

[INSERT NAME OF JURISDICTION]
**STATUTORY FORM DURABLE POWER OF ATTORNEY
OF**

(insert your name)

IMPORTANT INFORMATION

You are the Principal. You are using this durable power of attorney to grant authority to another person, known as your agent, to make decisions regarding your money and property.

Your agent will have the powers that you have indicated below to make decisions about your money and property without advance notice to you or approval by you. The powers that you give to your agent are explained more fully in Article 2 of the Revised Uniform Durable Power of Attorney Act [,insert citation to state statute here].

This durable power of attorney does not authorize anyone to make medical or other health care decisions for you. You may sign a separate document to grant authority for medical and health care decisions.

1 The authority granted in this durable power of attorney will be effective even if you
2 no longer have the capacity to make your own decisions about your money and
3 property. The authority will terminate on your death unless you revoke it earlier.
4

5 If you have any questions about this document or the powers you are granting to your
6 agent, you should obtain legal advice.
7

8 **DESIGNATION OF AGENT:**
9

10 I designate the following person(s) as my agent(s):
11
12
13
14

15 (Insert full name and address of the person(s) designated.)
16

17 If I have designated more than one agent, I instruct that my agents:
18

19 (CROSS OUT the option that you DO NOT want. If you fail to cross out an option, the agents must
20 act together.)
21

- 22 • may act INDEPENDENTLY.
- 23 • must act TOGETHER.
- 24

25 **DESIGNATION OF SUCCESSOR AGENT:**
26

27 I designate as my successor agent(s):
28
29
30
31

32 (Insert full name and address of the person(s) designated.)
33

34 My successor agent(s) may act for me if every agent first designated is incapacitated or not qualified
35 to serve, refuses to serve, or has resigned or died.
36

37 If I have designated more than one successor agent, I instruct that:
38

39 (CROSS OUT the TWO options that you DO NOT want. If you fail to cross out two options, the
40 successor agents must act alone and successively in the order named.)
41

- 42 • each successor agent must act ALONE AND SUCCESSIVELY in the order named.

- each successor agent may act INDEPENDENTLY.
- all successor agents must act TOGETHER.

GRANT OF POWERS:

I grant to my agent power with respect to the following subjects as defined in Article 2 of the Revised Uniform Durable Power of Attorney Act of this jurisdiction except for the power(s) that I have CROSSED OUT below:

- Real Property
- Tangible Personal Property
- Stocks and Bonds
- Commodities and Options
- Banks and Other Financial Institutions
- Operation of Business
- Insurance and Annuities
- Estates, Trusts, and Other Beneficiary Relationships
- Claims and Litigation
- Personal and Family Maintenance
- Benefits from Government Programs or Military Service
- Retirement Plans
- Taxes
- Any Other Matter

I understand that the foregoing grant of powers DOES NOT authorize my agent to do any of the following specific acts UNLESS I have also initialed the blank space () in front of the power to act. I grant power to my agent to perform ONLY the specific acts initialed, as those acts may be further defined or limited by the Revised Uniform Durable Power of Attorney Act of this jurisdiction:

() Gifts

() Delegation of Authority

(Reporter's Note: Section 201(b) of the proposed Revised Act lists seven powers which may be conveyed to an agent only by a specific grant of authority from the principal. The authority to make gifts of the principal's property and to delegate powers granted under the durable power of attorney to another person are two of the seven enumerated powers. The drafting committee elected at its last meeting, after much discussion, to delete the other five powers from the form in order to deter abusive use of the form. Members of the Joint Editorial Board have suggested that the form will be more complete, and the scope of authority more clearly defined, if all seven powers are included as options on the form. The following is alternate language representing that approach:

- 1 ☐ create, modify, or revoke a trust.
2 ☐ fund a trust not created by me or by a person authorized by me.
3 ☐ make or revoke a gift of my property.
4 ☐ create or change rights of survivorship in my property or in property in which I may
5 have an interest.
6 ☐ designate or change the designation of a beneficiary to receive any property, benefit,
7 or contract right on my death.
8 ☐ create in the agent or in a person to whom the agent owes a legal duty of support a
9 right to receive property, a benefit, or a contractual right in which I have an interest.
10 ☐ delegate the powers granted under this durable power of attorney to another person.
11

12 *The drafting committee seeks input from the Annual Conference on this issue.)*

13
14 The powers granted above to my agent ARE SUBJECT to the following special instructions:
15 (Insert instructions if any.)
16
17
18
19
20

21
22 **EFFECTIVE DATE:**
23

24 This durable power of attorney is effective:
25

26 (CROSS OUT the THREE options that you DO NOT want. If you do not cross out three options,
27 this durable power of attorney will become effective when you sign it.)
28

29 • immediately.
30

31 • upon my incapacity as determined by the following person(s):
32
33
34

35 (Insert full name and address of the person(s) designated.)
36

37 • upon my incapacity as determined by a physician.
38

39 • upon the following future date or event:
40

41 (State the future date or event that you intend to activate this durable power of attorney.)
42

43 **INDEMNIFICATION OF PERSONS WHO RELY ON THIS DURABLE POWER OF**

1 **ATTORNEY:**

2
3 I agree that any person that has knowledge of this durable power of attorney may rely upon its
4 validity. Termination or revocation of this durable power of attorney is not effective as to my agent
5 or other person who relies upon it without knowledge of the termination or revocation. I agree to
6 indemnify any person for claims that may arise against that person because of reliance on my durable
7 power of attorney.
8
9

10 **SIGNATURE AND ACKNOWLEDGMENT:**

11
12
13 Date: _____ .
14

15
16 _____
17 Your signature

18
19 _____
20 Your name printed

21
22 _____
23 Your address

24
25
26 State of _____
27 County of _____
28

29
30 This document was acknowledged before me on _____ (date),
31 by _____ (name of Principal).
32

33
34 _____ (Seal, if any)
35 Signature of Notary

36
37
38
39 [This document prepared by:

40
41 _____
42 _____]
43

1 **IMPORTANT INFORMATION FOR AGENT:**

2
3 As the Agent, once you exercise authority granted to you by the Principal, a fiduciary
4 relationship is created between you and the Principal. Unless otherwise modified in
5 this durable power of attorney, your duties include a duty to:

- 6
7 (1) Act in good faith and with prudence for the best interest of the Principal;
8 (2) Avoid conflicts of interest that would impair your ability to act in the
9 best interest of the Principal;
10 (3) Keep a complete record of all receipts, disbursements, and transactions
11 conducted on behalf of the Principal;
12 (4) Do nothing beyond the authority granted in this durable power of attorney;
13 (5) Complete an act undertaken on behalf of the Principal and continue acts
14 within the reasonable expectation of yourself and the Principal until this
15 durable power of attorney is terminated or revoked, or you resign; and
16 (6) Preserve the Principal's estate plan to the extent known to you when
17 preservation of the estate plan is consistent with the Principal's best interest.

18
19 If you violate the Revised Uniform Durable Power of Attorney Act or act outside the
20 scope of this durable power of attorney, you may be liable for the loss or damage
21 caused by your violation together with reasonable attorney's fees and expenses.

22
23 In any act performed under the authority of the durable power of attorney as an agent
24 for the Principal, you must disclose your designation as the agent of the Principal by
25 writing or printing the name of the Principal and signing your own name as "Agent"
26 in the following manner: Principal's Name by (Your Signature) as Agent.

27
28 If there is anything about this document or your duties that you do not understand,
29 you should obtain legal advice.