



**GENERAL DURABLE POWER OF  
ATTORNEY  
(RCW 11.94)  
Effective Either Immediately  
or Upon Disability**

Before using this form, please read “Questions and Answers on Powers of Attorney” by Columbia Legal Services. The following document describes the use of durable powers of attorney for financial matters primarily. The contents of this form are suggested by Washington State statute, but an estate planning attorney can give you more detailed information and can help you tailor such documents to your specific needs.

Powers

Carefully note which powers you want to give to your agent, which are listed in Section 1. Mark any powers you wish to give by putting your initials in the space in front of the numbered paragraph. To make clear that you do not wish to give your agent that power, simply cross out that paragraph and initial next to it.

You can use this document to give someone both your financial and medical durable powers of attorney. If you do not wish to make someone your medical/health care agent, cross out Paragraph 1. B and initial next to it.

### When Does the Durable Power of Attorney Go into Effect?

Once signed, this document can go into effect in three different situations: Immediately; When the Agent certifies that the Principal can't make decisions independently; or When the Principal's doctor certifies that the Principal can't make decisions. You will want to think about when you want your agent to begin acting on your behalf, and mark the form accordingly. To mark the form, put your initials in the space in front of the numbered paragraph. An Agent, sometimes referred to as the Attorney-in-Fact is the person exercising your power of attorney; the person to whom you are giving specific authority to act on your behalf.

In all cases, you should chose your agent carefully; they should be someone who will act carefully and prudently; they will be held to the highest standard of good faith, fair dealing and undivided loyalty with respect to you and your property. The person designated as agent should of course agee to the duties of agent before they are appointed as your agent. And you can always revoke their appointment.

The durable power of attorney can be effective immediately or not, depending on which paragraph in Section 2. A. is chosen by the person signing the power of attorney form, known as "The Principal".

### Effective Immediately

If you want the power of attorney to go into effect immediately enabling your agent to begin to act on your behalf right away, then initial paragraph 1 in Section 2 part A. This doesn't mean that you lose control over your affairs, but rather that the person you have chosen to be your agent can now exercise the powers you gave them in case you need them to.

### Effective upon Disability

If you want the power of attorney to go into effect when your agent certifies that you have become incapacitated and can no longer make important decisions independently, then initial paragraph 2 in Section 2 part A. If you choose this option, you will be authorizing your agent to consult with your doctor or medical provider to gather the medical information they need to make this decision. You will be signing a medical release as part of the form.

If you want to have your doctor, or two doctors who have examined you, decide whether you are incapacitated, before the power of attorney can go into effect, then initial paragraph 3 in Section 2 part A. This also includes a medical release.

If you initial Section 2. A. paragraph 2 or 3, your agent won't be able to use this document until the certification you specified is signed. If you want your agent to be able to use the powers in the document immediately, then you should initial paragraph 1 so that it is effective immediately.

Filed for record at the request of:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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## DURABLE POWER OF ATTORNEY

I, \_\_\_\_\_, resident of the State of Washington, revoke any powers of attorney I may have given in the past and give \_\_\_\_\_ (referred to below as "the agent") a durable power of attorney. I intend that it not be limited by any disability I may have in the future.

### 1. POWERS

A. The agent shall act on my behalf and for my benefit, and shall have all powers over my estate that I have or acquire. These shall include, but not be limited to, the following: the power to make deposits to, and payments from, any account in my name in any financial institution; the power to open and remove items from any safe deposit box in my name; the power to sell, exchange or transfer title to stocks, bonds or other securities; the power to sell, convey or encumber any real or personal property.

B. The agent shall have the power to consent to, or to withhold consent from, medical treatment, shall have all powers necessary or desirable to provide for my support, maintenance, health and comfort; the agent shall be entitled to obtain and use any of my medical records or other individually identifiable health information to the same extent as I would myself. This is intended as a full release of all information governed by the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

C. I authorize the agent to revoke any community property agreement and to transfer any property to my spouse or registered domestic partner as a gift. \_\_\_\_\_ (*Initial* here if revocation of a community property agreement and gifts to a spouse or registered domestic partner are authorized. If they are not authorized, cross out all of paragraph C.)

D. I authorize the agent to make gifts of my property to the following person or persons: \_\_\_\_\_.  
Gifts under this paragraph may be:  
\_\_\_\_\_ in any amount  
\_\_\_\_\_ not more than \$ \_\_\_\_\_ per year

(If gifts are authorized under paragraph D, either *initial* next to "in any amount" or *initial* next to "no more than" and fill in a dollar amount. If gifts are not

authorized, cross out all of paragraph D.)

No gift may be made under this power of attorney, except to a spouse or registered domestic partner if authorized under paragraph 1(C), unless authorized by this paragraph.

## **2. EFFECTIVE DATE, REVOCATION AND DISPOSITION OF REMAINS**

A. This power of attorney shall become effective (initial the choice that applies):

1. \_\_\_\_\_ immediately
2. \_\_\_\_\_ only when my agent, who may consult with any medical and/or legal professionals as he/she deems necessary or appropriate, certifies in writing that I lack the mental capacity to make important decisions independently. (This certification may be made using the box at the end of this document, or may be made in a separate writing.)

For purposes of obtaining information from a physician to determine if I am incapacitated, my agent shall be entitled to obtain and use any of my medical records or other individually identifiable health information to the same extent as I would myself. This is intended as a full release of all information governed by the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

3. \_\_\_\_\_ only when my incompetence or disability has been established by a written, dated statement signed by a qualified physician who has regularly attended me for the last two most recent years prior to disability or incompetence, or, in the absence of such a physician, by the unanimous agreement of two qualified physicians who have examined me and reviewed my medical history. (This certification may be made using the box at the end of this document, or may be made in a separate writing.)

For purposes of obtaining a certification of incompetency or disability from a physician, my agent shall be entitled to obtain and use any of my medical records or other individually identifiable health information to the same extent as I would myself. This is intended as a full release of all information governed by the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

B. This power of attorney shall remain in effect until revoked or until my death.

C. After my death, my agent shall have the authority to act as my representative for purposes of controlling the disposition of my remains, as authorized under RCW 68.50.16, if I have not otherwise made lawful provision for their disposition.

D. I may revoke this power of attorney by giving written notice to the agent and, if the power of attorney has been recorded, by recording the written instrument of revocation in the county office where deeds are recorded.

E. If I give notice of revocation after my agent has certified that I lack the mental capacity to make important decisions, then my agent's power or attorney shall be suspended unless and until a court determines that the revocation was not effective.

### **3. RIGHTS AND DUTIES OF THE AGENT**

A. My estate shall hold the agent harmless from, and indemnify the agent for, all liability for acts done for me in good faith based on this power of attorney.

B. The agent shall be required to account to any subsequently appointed personal representative.

### **4. NOMINATION OF GUARDIAN**

I nominate the agent for consideration by the court as my guardian or limited guardian in the event that any guardianship proceeding for my person or estate should be commenced.

### **5. SUBSTITUTE AGENT**

I appoint \_\_\_\_\_ to serve as substitute agent in place of the agent named in paragraph 1 above, if the agent named in paragraph 1 is unable or unwilling to serve. A statement signed by the substitute agent, affirming that the agent named in paragraph 1 is unable or unwilling to serve shall be sufficient to establish that the agent is unable or unwilling to serve.

(If no substitute agent is named, this paragraph should be crossed out.)

Dated: \_\_\_\_\_

On \_\_\_\_\_, a person I know to be \_\_\_\_\_ appeared before me in person, signed above, and acknowledged that the signing was done freely and voluntarily for the purposes mentioned above.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Notary Public, State of Washington,

residing at:

Commission expires:

**Certification of Incapacity  
(Certification by Agent)**

I certify that the principal lacks the mental capacity to make important decisions independently.

dated: \_\_\_\_\_  
\_\_\_\_\_

signature

printed name: \_\_\_\_\_

address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

telephone: \_\_\_\_\_

**Certification of Incapacity  
(Certification by Regular Attending Physician)**

I certify that I am a medical doctor, that I have regularly attended the principal and in my opinion the principal is now incompetent or disabled as defined in paragraph 1 of this document due to a lack of mental capacity to make important decisions independently and/or for the following reason:

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dated: \_\_\_\_\_

signature

printed name: \_\_\_\_\_

address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

telephone: \_\_\_\_\_

**Certification of Incapacity  
(Certification by Qualified Physicians in the Absence of a Regular Attending  
Physician)**

The undersigned each certify that he/she is a medical doctor, that he/she has examined the principal and reviewed the principal's medical history, and that in the opinion of the undersigned, the principal is now incompetent or disabled as defined in paragraph 1 of this document due to a lack of mental capacity to make important decisions independently and/or for the following reason:

\_\_\_\_\_ dated: \_\_\_\_\_

\_\_\_\_\_ signature

printed name: \_\_\_\_\_

address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_ telephone: \_\_\_\_\_

dated: \_\_\_\_\_

\_\_\_\_\_ signature

printed name: \_\_\_\_\_

address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_ telephone: \_\_\_\_\_