

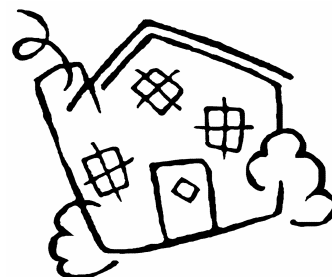


POWERS OF ATTORNEY

WHAT IS A POWER OF ATTORNEY?

A power of attorney is written permission for someone to take care of property or money matters for you, in whatever way you want. In a power of attorney paper, you are called the “principal” (person giving the power). The person who will take care of things for you is called the “attorney-in-fact.” This person does not have to be a lawyer. If an attorney-in-fact takes legal action in your name, it is the same as if you had done it yourself. With a power of attorney, you can still act for yourself when you want to, but the attorney-in-fact can **also** act for you. You do not lose the right to control property or money matters, and you can revoke (take back) the power of attorney at any time.

Usually, you give a power of attorney so someone else can sign papers about property and money matters. The power can be limited to a certain thing, like selling a property, or it can be very broad, such as handling all property and money matters. It depends on what you write on the power of attorney form. The attorney-in-fact must keep a record of anything they do for you. They have to do things in your best interest.



You can list more than one attorney-in-fact. If you do, it is important to know that each of them can do things in your name without asking permission from the other. But, you can write on the power of attorney form that you do not want it to be that way. You can also name a “successor attorney”. This is someone who takes over if the first one cannot do it anymore.

HOW CAN I MAKE A POWER OF ATTORNEY?

A power of attorney must be written, dated, and signed by you in front of a notary public. You can fill out the form at the end of this fact sheet. If you want the power to end at a certain time, list the day, month, and year when it will end.

WHO CAN HAVE A POWER OF ATTORNEY?

You must be mentally competent and able to make decisions on your own. Mentally competent means that you are “of sound mind”. If a person is not mentally competent, or incompetent, it is too late to make a power of attorney. In that

situation, a court must grant a guardianship or conservatorship. For more information on these, see our fact sheet, *Guardianship and Conservatorship*.

WHAT IS A DURABLE POWER OF ATTORNEY?

Durable means lasting. Normally, if you become mentally incompetent, the power of attorney is not good any more. But you can write that you want to continue the power even if you become incompetent. Then it is called a durable power of attorney. If you say on it “This power of attorney shall not be affected by incapacity of the principal” it would be a durable power of attorney. If you do become mentally incompetent, a durable power of attorney can only be ended by a court-appointed conservator.

DO I NEED A LAWYER TO DO A POWER OF ATTORNEY?

No. But it is a good idea to use a lawyer. The courts watch over the things that guardians or conservators do, but they do not watch over what an attorney-in-fact does. An attorney-in-fact could take advantage of you. A lawyer can help you put things in your power of attorney papers that limit the actions of the attorney-in-fact or make them have to show what they do with money and property.

HOW DOES THE POWER OF ATTORNEY WORK?

Both the principal and the attorney-in-fact should have a copy of the document. If you are giving a power to sell land, file a copy at the county recorder’s office. If the power deals with money matters, file a copy with the bank. When the attorney-in-fact acts for you, they sign their own name and then write:



(their signature) **As attorney-in-fact for** *(your name)*.

CAN I STOP A POWER OF ATTORNEY?

Yes. A competent person can revoke (take back) a power of attorney at any time. You must put in writing that you revoke the power of attorney, and sign and date this in front of a notary. Send copies to the attorney-in-fact and to any person, office or bank the attorney-in-fact dealt with for you. Powers of attorney automatically end when the principal dies. If you give a power of attorney to your spouse, it ends if either of you start a divorce, separation, or annulment case.

**STATUTORY SHORT FORM POWER OF ATTORNEY
MINNESOTA STATUTES, SECTION 523.23**

IMPORTANT NOTICE: The powers granted by this document are broad and sweeping. They are defined in Minnesota Statutes section 523.24. If you have any questions about these powers, obtain competent advice. This power of attorney may be revoked by you if you wish to do so. This power of attorney is automatically terminated if it is to your spouse and proceedings are commenced for dissolution, legal separation or annulment of your marriage. This power of attorney authorizes, but does not require, the attorney-in-fact to act for you.

PRINCIPAL (Name and address of person granting the power)

ATTORNEY(S)-IN-FACT

(Names and Addresses)

SUCCESSOR ATTORNEY(S)-IN-FACT (Optional)

To act if any named attorney-in-fact dies, resigns or is otherwise unable to serve. (Name and Address)

First Successor _____

Second Successor _____

NOTICE: If more than one attorney-in-fact is designated, make a check or "x" on the line in front of one of the following statements:

_____ Each attorney-in-fact may independently exercise the powers granted.

_____ All attorneys-in-fact must jointly exercise the powers granted.

EXPIRATION DATE (Optional)

Use specific month, day and year only

I (the above named Principal), appoint the above named Attorney(s)-in-fact:

FIRST: To act for me in any way I could act with respect to the following matters, as each of them is defined in Minnesota Statutes, section 523.24:

(To grant the attorney-in fact any of the following powers, make a check or "x" on the line in front of each power being granted. You may, but need not, cross out each power not granted. Failure to make a check or "x" on the line in front of the power will have the effect of deleting the power unless the line in front of the power N is checked or x-ed.)

Check or "x"

_____ (A) Real property transactions;
I choose to limit this power to real property in _____ County, MN
described as follows: (use legal description. Do not use address.)

(If more space is needed, continue on the back or on an attachment.)

- _____ (B) Tangible personal property transactions;
- _____ (C) Bond, share, and commodity transactions;
- _____ (D) Banking transactions;
- _____ (E) Business operating transactions;
- _____ (F) Insurance transactions;
- _____ (G) Beneficiary transactions;
- _____ (H) Gift transactions;
- _____ (I) Fiduciary transactions;
- _____ (J) Claims and litigations;
- _____ (K) Family maintenance;
- _____ (L) Benefits from military service;
- _____ (M) Records, reports, and statements;
- _____ (N) All of the powers listed in (A) through (M) above and all other matters.

SECOND: (you must indicate below whether or not this power of attorney will be effective if you become incapacitated or incompetent. Make a check or "x" on the line in front of the statement that expresses you intent.)

_____ This power of attorney shall continue to be effective if I become incapacitated or incompetent.

_____ This power of attorney **shall not** be effective if I become incapacitated or incompetent.

THIRD: (you must mark below whether or not this power of attorney authorizes the attorney-in-fact to transfer your property to the attorney-in-fact. Make a check or "x" on the line in front of the statement that expresses your intent.)

_____ This power of attorney authorizes the attorney-in-fact to transfer my property to the attorney-in-fact.

_____ This power of attorney **does not** authorize the attorney-in-fact to transfer my property to the attorney-in-fact.

FOURTH: (you may indicate below whether or not the attorney-in-fact is required to make an accounting. Make a check or "x" on the line in front of the statement that expresses your intent.)

_____ My attorney-in-fact need not render an accounting unless I request it or the accounting is otherwise required by Minnesota Statutes, section 523.21.

_____ My attorney-in-fact must render _____ accounting to me, **or to**
monthly, quarterly, annual (circle one)

(Name and Address)

during my lifetime, and a final accounting to the personal representative of my estate, if any is appointed, after my death.

In Witness Whereof I have hereunto signed my name this _____ day of _____ 200 _____

(Signature of Principal)

(Acknowledgment of Principal)

STATE OF MINNESOTA

County of _____

The foregoing instrument was acknowledged before me this _____ day of _____

200 _____, by _____

(Insert name of principal)

Signature of Notary Public

This instrument was drafted by:

Specimen signature(s) of Attorney(s)-in-Fact:

(Notarization not required)

REVOCATION OF POWER OF ATTORNEY
Minnesota Statutes, § 523.11

TO WHOM IT MAY CONCERN:

I _____ revoke and declare null and void the

POWER OF ATTORNEY I granted to _____

which is dated _____, 200 _____

Please be advised that the above-named person no longer has power to act as my attorney-in-fact in any way.

Date: _____

(Principal)

STATE OF MINNESOTA

County of _____

The foregoing instrument was acknowledged before me this _____ day of _____ 200 _____

by _____

Notary Public