

STATUTORY POWER OF ATTORNEY FOR FINANCES

A Power of Attorney (POA) is a written document authorizing someone you name (your "agent" or "attorney-in-fact") to make decisions for you. These decisions can include financial and business decisions. A Power of Attorney can also contain instructions or guidelines you want your agent to follow.

The Statutory Power of Attorney form was created by the Montana legislature. It will allow you to decide the powers you want to delegate to another person. You will be able to decide when the authorization to act on your behalf will take effect.

You need to be careful with the use of the Power of Attorney. The power you grant to another person may be broad and sweeping. The power will become effective immediately unless you state otherwise.

You need to have your signature notarized on your Power of Attorney by a Notary Public. You also need to give a copy of your Power of Attorney to your agent so he/she will have the document when the time comes to make decisions for you.

You want to make certain the person to whom you give the power is trusted and knows your intent.

You may revoke your Power of Attorney at any time. You will find a "Revocation of the Power of Attorney" form at the end of this section. You must sign and date the revocation. You must make a copy of the revocation and deliver it to the businesses, physicians, banks and hospitals that may be relying upon the Power of Attorney you originally executed.

The statutory POA form follows.

If you have any questions about this form, contact: Montana Generational Justice at (406) 422-3904

DURABLE POWER OF ATTORNEY
OF
FOR FINANCIAL MATTERS

I. APPOINTMENT OF AGENT

I, _____, name the following person as my agent:

Agent's Name: _____

Agent's Address: _____

Agent's Telephone Number(s): _____

II. APPOINTMENT OF SUCCESSOR AGENTS

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

Successor Agent's Name: _____

Successor Agent's Address: _____

Successor Agent's Telephone Number(s): _____

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

Second Successor Agent's Name: _____

Second Successor Agent's Address: _____

Second Successor Agent's Telephone Number(s): _____

III. GRANT OF GENERAL AUTHORITY

I grant my agent and any successor agent general authority to act for me with respect to the following subjects as defined in the Uniform Power of Attorney Act, MCA Title 72, chapter 31, part 3:

- ☐ Real Property
- ☐ Tangible Personal Property
- ☐ Stocks and Bonds
- ☐ Commodities and Options
- ☐ Banks and Other Financial Institutions
- ☐ Operation of Entity or Business
- ☐ Insurance and Annuities

Your initials: _____ Date: _____

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- ☐ 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
- ☐ Individual Indian Money Account(s) (IIM)
- ☐ Indian Trust Land
- ☐ All Preceding Subjects

IV. LIMITATION ON AGENT'S AUTHORITY (Mark only one of the next two boxes)

- ☐ 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.
- ☐ An agent 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.

V. EFFECTIVE DATE (Mark only one of the next two boxes)

- ☐ This Power of Attorney is effective immediately unless otherwise stated in the Special Instructions. However, I still have the right to make any decisions about my finances if I want to and have the capacity to do so.
- ☐ This Power of Attorney becomes effective only when I lack the capacity to make my own financial decisions.

VI. SPECIAL INSTRUCTIONS (Optional)

Mark only one of the next two boxes:

- ☐ If it is necessary to determine whether I lack the capacity to make my own financial decisions, my attending or primary care physician or advanced practice registered nurse shall make such determination. No attending or primary care physician or advanced practice registered nurse, making such determination, may be related by blood or marriage to any party who may benefit from the determination.

Your initials: _____ Date: _____

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☐ If it is necessary to determine whether I lack the capacity to make my own financial decisions, my attending or primary care physician or advanced practice registered nurse and one other licensed physician shall make such determination. No attending or primary care physician or advanced practice registered nurse or other licensed physician, making such determination, may be related by blood or marriage to any party who may benefit from the determination.

My agent (**check one**): ☐ **is** OR ☐ **is not** entitled to reasonable compensation for services performed under this Power of Attorney.

If my agent is unable or unwilling to act for me, this Power of Attorney will end unless I have named a successor agent.

This Power of Attorney will continue until I die or revoke the Power of Attorney or the agent or successor agent resigns or is unable to act for me.

VII. 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:

☐ My agent and if they are unable or unwilling to act, then my successor agent for appointment.

☐ Other nominee(s):

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: _____

VIII. RELIANCE ON THIS POWER OF ATTORNEY

This Power of Attorney revokes all previous power of attorney forms signed by me. This Power of Attorney may only be revoked in writing signed by me.

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.

This document is executed in the State of Montana, and the laws of the State of Montana shall govern all matters as to the validity and extent of the powers and the construction of its provisions.

Your initials: _____ Date: _____

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SIGNATURE AND ACKNOWLEDGMENT

DATED this ____ day of _____, 2020.

_____, Principal
(Printed legal name)

STATE OF MONTANA)
) :§
COUNTY OF _____)

The Principal named above appeared before me and acknowledged that their free and voluntary signature upon this instrument was given for the purposes stated therein, and such Principal is either known to me or produced satisfactory evidence of their identity.

SUBSCRIBED and **SWORN** to before me this ____ day of _____, 2020.

NOTARY PUBLIC for the State of Montana

Residing in _____

Commission Expires _____

Your initials: _____ Date: _____

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IMPORTANT INFORMATION FOR AGENT

I. 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; and
4. 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 who 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; and
6. Attempt to preserve the principal's estate plan if you know the plan and preserving the plan is consistent with the principal's best interest.

II. 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. 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; or
5. If you are married to the principal, a legal action is filed with a court to end or annul 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.

III. LIABILITY OF AGENT

The meaning of the authority granted to you is defined in the Uniform Power of Attorney Act, MCA Title 72, chapter 31, part 3. If you violate the MCA 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 CERTIFICATION

**** NOTE:** This Certification is an optional form that may be used by an agent to certify facts relating to a power of attorney appointment. Montana Generational Justice recommends this form be signed by the agent(s), although this form is not required in order for an agent to act on the principal's behalf under Montana law.

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

I, _____, Agent, certify under penalty of perjury that _____, Principal, granted me authority as 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.

SIGNATURE AND ACKNOWLEDGMENT

AGENT SIGNATURE

Printed Name: _____

Address: _____

Phone: _____

STATE OF _____)

) :§

COUNTY OF _____)

The person named above as the "Agent" appeared before me on the this _____ day of _____, 20____, and acknowledged that their free and voluntary signature upon this instrument was given for the purposes stated therein, and such "Agent" is either known to me or produced satisfactory evidence of their identity.

NOTARY PUBLIC for the State of _____

Residing in _____

Commission Expires _____