

Minnesota Durable Power of Attorney

MINNESOTA STATUTES, SECTION 523.23

IMPORTANT INFORMATION

In the power of attorney outlined below, another person (referred to as your agent) is authorized to make decisions related to your property and other affairs on your behalf (you as the principal). This authority remains in effect whether or not you're able to make decisions due to incompetence or incapacity.

Note: The agent doesn't have the authority to make medical decisions on your behalf.

Within this document, there's a provision for a single agent and a successor agent. If you'd like to appoint a second (also known as a successor agent) or a co-agent, you may do so using the special instructions. The co-agent is not required to work with the primary agent unless it's stated in the special instructions. The secondary agent doesn't have authority until the primary agent is unwilling or unable to act on your behalf.

DESIGNATION OF AGENT

On the ____ day of _____, 20____ I, _____ (principal) of _____ [Address], authorize _____ of _____ [Address], as my agent (attorney-in-fact) to act for me and in my name according to the instructions in the document below. If the primary agent named above is unable to act on my behalf or unwilling to act on my behalf, then _____ of _____ [Address] will be my successor agent.

_____ - A. I, the principal, permit the agent named above to assume the powers outlined in this document as soon as it is executed. The authority granted remains in effect even in the case of my personal disability.

Or

_____ - B. I, the principal, permit the agent named above to assume the powers outlined in this document when it has been determined by primary doctor that I am no longer capable of handling my affairs due to incompetence or incapacity.

AUTHORITY GRANTED

My agent shall exercise powers in my best interests and for my welfare, as a fiduciary.

Any subject that is initialed below constitutes the general authority I have granted to my agent(s). Any subject crossed out below constitutes the general authority I HAVE NOT granted to my agent(s).

Note: If all general authority should be granted to agents, initial line Q 'All preceding subjects are granted.'

- _____ (A) Real property or real estate authority. Inclusive of managing property.
- _____ (B) Authority over tangible personal property
- _____ (C) Stocks and bonds
- _____ (D) Safe deposit box
- _____ (E) Lending or borrowing (goods and money)
- _____ (F) Commodities and options
- _____ (G) Banks and Other Financial Institutions
- _____ (H) Operation of Entity or Business
- _____ (I) Insurance and Annuities
- _____ (J) Estates, Trusts, and Other Beneficiary Interests
- _____ (K) Claims and Litigation
- _____ (L) Personal and Family Maintenance
- _____ (M) Benefits from Governmental Programs or Civil or Military Service
- _____ (O) Retirement Plans
- _____ (P) Taxes
- _____ (Q) All proceeding subjects are granted) above and all other matters, other than health care decisions under a health care directive that complies with Minnesota Statutes, chapter 145C.

LIMITATION ON AGENT'S AUTHORITY

Please note that if an agent is not my spouse, descendant, or beneficiary of my estate, they do NOT have the authority to use my resources, property, or assets to benefit themselves or another person that the agent is supporting. The only time that the agent may use the aforementioned resources is if I have included that authority in the special instructions.

SPECIAL INSTRUCTIONS (OPTIONAL)

This area is available for you to add special instructions that may increase or decrease the authority of your agents. If there are no special instructions then you may leave this place blank or add the word 'NIL'.

AUTHORITY OF ATTORNEY-IN-FACT

Any individual or organization that deals with the agent appointed in this document may, with complete certainty, depend on the authority of said agent that has been granted in this power of attorney. Furthermore, no person that acts in good faith in accordance with my agent based on the authority granted herein or the representations made by my agent shall incur additional liability to me or my estate as a result of the act carried out in good faith. Furthermore, I acknowledge and confirm whatever lawful action my agent may take as a result of this instrument.

TERMINATION

The power of attorney is not affected by time or disability. Unless I state a specific end date, it will only be revoked upon my death or when I create and execute a power of attorney revocation.

NOMINATION OF GUARDIAN (OPTIONAL)

In the event that the court deems it necessary to appoint a guardian for me or my estate, these are the nominees I present for consideration of the appointment:

Guardian of estate nominee: _____
Address: _____
Telephone Number: _____

Guardian of my person nominee: _____
Address: _____
Telephone Number: _____

STATE LAW: The durable power of attorney outlined here is under the laws of the state of Minnesota.

RELIANCE ON THIS POWER OF ATTORNEY

Anyone, which includes my agent, can rely upon and be assured of the validity of this power of attorney as well as a copy of this power of attorney unless they parties know it has been revoked or otherwise been rendered invalid.

SIGNATURE AND ACKNOWLEDGMENT

Signature of Principal

Date

Name Printed

Address

Telephone Number

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

State of _____

County of _____

I, _____ (Name of Agent), certify under penalty of perjury that
_____ (Name of Principal), granted me authority as an agent or
successor agent in a power of attorney dated _____, 20____.

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) By signing below, I acknowledge I have read and understand the IMPORTANT NOTICE TO ATTORNEY(S)-IN-FACT required by Minnesota Statutes, section 523.23, and understand and accept the scope of any limitations to the powers and duties delegated to me by this instrument.
- (5) _____

_____ (Insert other relevant statements)

SIGNATURE AND ACKNOWLEDGMENT

Agent's Signature

Date

Agent's Name Printed

Agent's Address

Agent's Telephone Number

We, serving as witnesses, each declare that the principal signed and executed this instrument in our presence. The principal signed it in their right state of mind, to our knowledge is eighteen years of age or older, and willingly signed without undue pressure, influence, or duress. We each sign this power of attorney as witnesses at the request of the principal while the principal is present.

Witness's Signature

Address

Witness's Signature

Address

Notary Acknowledgement

State of _____
County of _____

On _____, 20____ before me, _____ (name and title of officer), personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that she/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of _____ that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(Seal)

Print Name _____

IMPORTANT NOTICE TO THE PRINCIPAL READ THIS NOTICE CAREFULLY.

The power of attorney form that you will be signing is a legal document. It is governed by Minnesota Statutes, chapter 523. If there is anything about this form that you do not understand, you should seek legal advice.

PURPOSE: The purpose of the power of attorney is for you, the principal, to give broad and sweeping powers to your attorney(s)-in-fact, who is the person you designate to handle your affairs. Any action taken by your attorney(s)-in-fact pursuant to the powers you designate in this power of attorney form binds you, your heirs and assigns, and the representative of your estate in the same manner as though you took the action yourself.

POWERS GIVEN: You will be granting the attorney(s)-in-fact power to enter into transactions relating to any of your real or personal property, even without your consent or any advance notice to you. The powers granted to the attorney(s)-in-fact are broad and not supervised.

THIS POWER OF ATTORNEY DOES NOT GRANT ANY POWERS TO MAKE HEALTH CARE DECISIONS FOR YOU. TO GIVE SOMEONE THOSE POWERS, YOU MUST USE A HEALTH CARE DIRECTIVE THAT COMPLIES WITH MINNESOTA STATUTES, CHAPTER 145C.

DUTIES OF YOUR ATTORNEY(S)-IN-FACT: Your attorney(s)-in-fact must keep complete records of all transactions entered into on your behalf. You may request that your attorney(s)-in-fact provide you or someone else that you designate a periodic accounting, which is a written statement that gives reasonable notice of all transactions entered into on your behalf. Your attorney(s)-in-fact must also render an accounting if the attorney-in-fact reimburses himself or herself for any expenditure they made on behalf of you.

An attorney-in-fact is personally liable to any person, including you, who is injured by an action taken by an attorney-in-fact in bad faith under the power of attorney or by an attorney-in-fact's failure to account when the attorney-in-fact has a duty to account under this section. The attorney(s)-in-fact must act with your interests utmost in mind.

TERMINATION: If you choose, your attorney(s)-in-fact may exercise these powers throughout your lifetime, both before and after you become incapacitated. However, a court can take away the powers of your attorney(s)-in-fact because of improper acts. You may also revoke this power of attorney if you wish. This power of attorney is automatically terminated if the power is granted 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(s)-in-fact to act for you. You are not required to sign this power of attorney, but it will not take effect without your signature. You should not sign this power of attorney if you do not understand everything in it, and what your attorney(s)-in-fact will be able to do if you do sign it. Please place your initials on the following line indicating you have read this IMPORTANT NOTICE TO THE PRINCIPAL:

IMPORTANT NOTICE TO THE ATTORNEY(S)-IN-FACT

You have been nominated by the principal to act as an attorney-in-fact. You are under no duty to exercise the authority granted by the power of attorney. However, when you do exercise any power conferred by the power of attorney, you must:

- (1) act with the interests of the principal utmost in mind;
- (2) exercise the power in the same manner as an ordinarily prudent person of discretion and intelligence would exercise in the management of the person's own affairs;
- (3) render accountings as directed by the principal or whenever you reimburse yourself for expenditures made on behalf of the principal;
- (4) act in good faith for the best interest of the principal, using due care, competence, and diligence;
- (5) cease acting on behalf of the principal if you learn of any event that terminates this power of attorney or terminates your authority under this power of attorney, such as revocation by the principal of the power of attorney, the death of the principal, or the commencement of proceedings for dissolution, separation, or annulment of your marriage to the principal;
- (6) disclose your identity as an attorney-in-fact whenever you act for the principal by signing in substantially the following manner: Signature by a person as "attorney-in-fact for (name of the principal)" or "(name of the principal) by (name of the attorney-in-fact) the principal's attorney-in-fact";
- (7) acknowledge you have read and understood this IMPORTANT NOTICE TO THE ATTORNEY(S)-IN-FACT by signing the power of attorney form. You are personally liable to any person, including the principal, who is injured by an action taken by you in bad faith under the power of attorney or by your failure to account when the duty to account has arisen.

The meaning of the powers granted to you is contained in Minnesota Statutes, chapter 523. If there is anything about this document or your duties that you do not understand, you should seek legal advice.

Subd. 2. Failure to check or "X" a power. Any of the powers of the form in subdivision 1 or a form prepared under section 523.231 which is not checked or X-ed is withheld by the principal from the attorney-in-fact unless the power of (N) of the form in subdivision 1 or a comparable provision in a form prepared under section 523.231 is checked or X-ed.

Subd. 3. Requirements. Except for a form prepared under section 523.231, to constitute a "statutory short form power of attorney," as this phrase is used in this chapter the wording and content of the form in subdivision 1 must be duplicated exactly and with no modifications, parts First, Second, and Third must be properly completed, and the signature of the principal must be acknowledged. Failure to name a successor attorney-in-fact, to provide an expiration date, or to complete part Fourth does not invalidate the power as a statutory short form power of attorney. A power of attorney that does not satisfy the requirements of this subdivision or a form prepared under section 523.231, but purports to be a statutory short form power of attorney, may constitute a common law power of attorney that incorporates by reference the definitions of powers contained in section 523.24; however, a party refusing to accept the authority of the common law attorney-in-fact is not liable under section 523.20.

Subd. 3a. Legal description. Use of a street address instead of a legal description under the power of (A) in part First of the statutory short form power of attorney invalidates the power of (A) for all real property transactions, but does not affect the powers of (B) to (M), nor does it affect the power of (N) except with respect to real property transactions.

Subd. 4. Powers of attorney-in-fact. All powers enumerated in section 523.24 may be legally performed by an attorney-in-fact acting on behalf of a principal.

Subd. 5. Reimbursement of attorney-in-fact. The attorney-in-fact acting under a statutory short form power of attorney is authorized to reimburse the attorney-in-fact for expenditures the attorney-in-fact has made on behalf of the principal even if the principal has not authorized the attorney-in-fact to receive transfers directly under part Third. In the event a reimbursement is made, the attorney-in-fact shall render an accounting in accordance with section 523.21.

Subd. 6. Effective date of amendments. The amendments to the form under subdivision 1 and to section 523.24, subdivision 8, that are contained in Laws 2013, chapter 23, are effective January 1, 2014, and apply to powers of attorney executed on or after that date. These amendments do not invalidate or impair a power of attorney executed before that date.