

# DURABLE POWER OF ATTORNEY

## General Information

**NOTE: THIS DOCUMENT GIVES THE PERSON YOU DESIGNATE AS YOUR ATTORNEY-IN-FACT BROAD POWERS TO MAKE DECISIONS FOR YOU RELATING TO YOUR PROPERTY AND OTHER FINANCIAL MATTERS. USE OF THIS FORM IS OPTIONAL AND SHOULD BE CONSIDERED ONLY IF YOU ARE COMFORTABLE WITH THE POWERS AND PROVISIONS GRANTED BY THIS DOCUMENT.**

***EXPLANATION:** You have the right to name someone to make financial decisions for you when you cannot make or communicate those decisions for whatever reason. This document gives the person you designate as the attorney-in-fact broad powers to make financial decisions for you when you cannot make the decision yourself or cannot communicate your decision to other people. This document includes provisions which allow your attorney-in-fact to make decisions about the education and protection of your child(ren).*

*This durable power of attorney form meets the requirements of Tennessee law, and it is intended to be valid in any jurisdiction in which it is presented, but places outside Tennessee may impose requirements that this form does not meet; therefore, if you or your family leave this state we recommend that you seek assistance from an attorney in that area who can advise you on whether you need to sign another form.*

### **Things to Consider:**

#### **1) Talk to your family and your potential agent**

You should discuss your wishes concerning your property and financial affairs with your attorney-in-fact. Except to the extent that you express specific limitations or restrictions in this form, the attorney-in-fact may make any financial or property related decision for you.

#### **2) Specific duties of your agent**

This form does not impose a duty on the attorney-in-fact to exercise the granted powers, but when a power is exercised, your attorney-in-fact will be obligated to use due care to act in your best interests and in accordance with this document.

**Granting this broad power also creates the potential for abuse. For this reason, we recommend that you have a serious discussion with the potential attorney-in-fact and are confident in their ability to minimize any risks.**

#### **3) Fill out the General Power of Attorney and...**

Once the Form is completed, we recommend that you keep the original and give a copy of the form to each agent and to your child(ren)'s school to ease the transition process in the event of your absence.

You can deliver the documents to the agent immediately, or can wait and have someone else deliver them to the agent if you are placed in detention. This decision is very important and is something that should be discussed with your family and an attorney. If you decide to hold on to the documents, it also is important to decide how the documents will be delivered, and by whom. You should also discuss with your children where they will go if you are arrested and who will have the authority to make decisions about them.

If over time, your beliefs or attitudes in any area change, you should inform your attorney-in-fact. How well your attorney-in-fact performs depends on how well you have prepared them and how well you stay touch with them.

#### **4) How to Revoke a Durable Power of Attorney**

There may come a time when you decide that you would like to revoke (cancel) your Durable Power of Attorney. This form may be revoked in the following ways:

- A written notarized document communicating your intent to revoke the document;
- A signed resignation from the attorney-in-fact acknowledged before a notary public and delivered to the attorney and to any other attorney-in-fact;
- Providing an end date for the power;
- The death of the principal (you); or
- If your Power of Attorney has been filed with the register of deeds, it may be revoked if you **register a revocation** at the same office in which the Power of Attorney was originally registered. The revocation must be executed by you while you are mentally competent and not incapacitated.

Please note: The revocation of your Durable Power of Attorney becomes effective only upon your communication to all attorneys-in-fact named in the document.

#### **Suggested Topics to Discuss with Your Attorney-in-Fact**

- Abuse
- Delivery to agent
- Sale/management of property
- Business interests
- Insurance
- Making arrangements for the education and well being of minor children.

#### **Signing on behalf of the Individual**

Please note that, to avoid personal liability, when the agent signs documents on behalf of the individual, the agent should specifically indicate that s/he is acting as the agent. For example, the agent should sign documents as follows: "Larry Carl Smith, by Molly Smith, his Agent."

