

## **STATUTORY POWER OF ATTORNEY**

Section 45-5B-301. STATUTORY FORM POWER OF ATTORNEY. A document substantially in the following form may be used to create a statutory form power of attorney that has the meaning and effect prescribed by the Uniform Power of Attorney Act:

### **NEW MEXICO STATUTORY FORM POWER OF ATTORNEY**

#### **IMPORTANT INFORMATION**

This power of attorney authorizes another person (your agent) to make decisions concerning your property for you (the principal). Your agent will be able to make decisions and act for you with respect to your property (including your money) whether or not you are able to act for yourself. The meaning of authority over subjects listed on this form is explained in the Uniform Power of Attorney Act.

This power of attorney does not authorize the agent to make health care decisions for you.

You should select someone you trust to serve as your agent. Unless you specify otherwise, generally the agent's power will continue until you die or revoke the power of attorney or the agent resigns or is unable to act for you.

Your agent is entitled to reasonable compensation unless you state otherwise in the Special Instructions.

This form provides for designation of one agent. If you wish to name more than one agent, you may name a co-agent in the Special Instructions. Co-agents are not required to act together unless you include that requirement in the Special Instructions.

If your agent is unable or unwilling to act for you, your power of attorney will end unless you have named a successor agent. You may also name a second successor agent.

This power of attorney becomes effective immediately unless you state otherwise in the Special Instructions.

If you have questions about the power of attorney or the authority you are granting to your agent, you should seek legal advice before signing this form.

#### DESIGNATION OF AGENT

I, \_\_\_\_\_,  
(Your Name)

name the following person as my agent:

Name of Agent: \_\_\_\_\_

Agent's Address: \_\_\_\_\_

Agent's Telephone Number: \_\_\_\_\_

#### DESIGNATION OF SUCCESSOR AGENT(S) (OPTIONAL)

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

Name of Successor Agent: \_\_\_\_\_

Successor Agent's Address: \_\_\_\_\_

Successor Agent's Telephone Number: \_\_\_\_\_

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

Name of Second Successor Agent: \_\_\_\_\_

Second Successor Agent's Address: \_\_\_\_\_

Second Successor Agent's Telephone Number: \_\_\_\_\_

## 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.

(INITIAL each subject you want to include in the agent's general authority. If you wish to grant general authority over all the subjects, you may initial "All Preceding Subjects" instead of initialing each subject.)

- real property
- tangible personal property
- stocks and bonds
- commodities and options
- banks and other financial institutions
- operation of entity or business
- insurance and annuities
- 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
- all preceding subjects

### GRANT OF SPECIFIC AUTHORITY (OPTIONAL)

My agent MAY NOT do any of the following specific acts for me UNLESS I have INITIALED the specific authority listed below:

(CAUTION. Granting any of the following will give your agent the authority to take actions that could significantly reduce your property or change how your property is distributed at your death. INITIAL ONLY the specific authority you WANT to give your agent.)

- Create, amend, revoke or terminate an inter vivos trust
- Make a gift, subject to the limitation of Section 217 of the Uniform Power of Attorney Act and any special instructions in this power of attorney
- Create or change rights of survivorship
- Create or change a beneficiary designation
- Authorize another person to exercise the authority granted under this power of attorney
- Waive the principal's right to be a beneficiary of a joint and surviving annuity, including a survivor benefit under a retirement plan
- Exercise fiduciary powers that the principal has authority to delegate
- Disclaim or refuse an interest in property, including a power of appointment

### LIMITATION ON AGENT'S AUTHORITY

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.

SPECIAL INSTRUCTIONS:

You may give special instructions on the following lines:

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

EFFECTIVE DATE

This power of attorney is effective immediately unless I have stated otherwise in the Special Instructions.

NOMINATION OF CONSERVATOR OR GUARDIAN (OPTIONAL)

If it becomes necessary for a court to appoint a conservator or guardian of my person, I nominate the following person(s) for appointment:

Name of Nominee for conservator 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: \_\_\_\_\_

RELIANCE ON THIS POWER OF ATTORNEY

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.

SIGNATURE AND ACKNOWLEDGMENT

Your signature: \_\_\_\_\_

Date: \_\_\_\_\_

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

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

Your telephone number: \_\_\_\_\_

State of \_\_\_\_\_

County of \_\_\_\_\_

This instrument was acknowledge before me on \_\_\_\_\_

(date) by \_\_\_\_\_ (Name of principal)

(Seal) if any

Signature of notary: \_\_\_\_\_

My commission expires: \_\_\_\_\_

## Important Information for Agent

### 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 identify 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:

\_\_\_\_\_ by \_\_\_\_\_ as  
Agent  
(Principal's Name) (Your signature)

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 transaction made on behalf of the principal;
5. cooperate with any person that 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 would be consistent with the principal's best interest.

### Termination of Agent's Authority

You must stop acting on behalf of the principal if you learn of any event that terminated 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 your marriage, or for your legal separation,



unless the Special Instructions in this power of attorney stated that such an action will not terminate your authority.

### Liability of Agent

The meaning of the authority granted to you is defined in the Uniform Power of Attorney Act. If you violate the Uniform Power of Attorney Act 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'S CERTIFICATION AS TO THE VALIDITY OF  
POWER OF ATTORNEY AND AGENT'S AUTHORITY

State of New Mexico

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 \_\_\_\_\_.

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 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 not longer able or willing to serve; and

(4)

---

---

---

---

---

---

(Insert other relevant statements)





Sworn to before me \_\_\_\_\_ this \_\_\_\_\_ day  
of \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

My commission expires:

\_\_\_\_\_.

B. A statutory power of attorney is legally sufficient under the Uniform Statutory Form Power of Attorney Act, if the wording of the form complies substantially with Subsection A of this section, the form is properly completed, and the signature of the principal is acknowledged in any form permitted by law.

C. If the line in front of line 17 of the form under Subsection A of this section is initialed, an initial on the line in front of any other power does not limit the powers granted by line 17.

D. By accepting or acting under a power of attorney, statutory or otherwise, an attorney-in-fact assumes fiduciary and other legal responsibilities of an agent acting for the principal.