

# **DURABLE POWER OF ATTORNEY**

## **INSTRUCTIONS**

A **Durable Power of Attorney** is a document used to appoint a person called your **Attorney** to manage your financial affairs. It is intended to be used if you experience a period of incapacity during your lifetime (for example, if you are injured or ill and are hospitalized for a period of time), or if you are otherwise unavailable. Your Attorney can take any of the listed actions on your behalf. The person you name as your Attorney should be fiscally responsible, organized, honest and trustworthy. If you are a college student or young adult, you may want to name one or both of your parents as your Attorney. If you name more than one person, they may act together or alone under the terms of the document.

### To complete the Durable Power of Attorney:

1. Insert your name in the first blank line on the first line of the form.
2. Insert the City or Town of your permanent home (not your temporary college residence) in the second blank line on the first line of the form.
3. Insert the name(s) and address(es) of one or more persons who you wish to designate as your Attorney.
4. Take the form to a Notary Public and sign and date the form in the presence of the Notary. You may complete the form before you go to the Notary, but do not sign and date the form until you are in the presence of the Notary.
5. The Notary should complete the Notary clause below your signature, and sign and seal the document.
6. Keep the signed Power of Attorney in a safe place, and inform your Attorney (the person you have named in the document to manage your financial affairs) where it can be found in the event it is needed.

**DURABLE POWER OF ATTORNEY**

I, \_\_\_\_\_ of \_\_\_\_\_, Massachusetts, hereby appoint:

Name(s): \_\_\_\_\_

Address(es): \_\_\_\_\_

as my lawful attorney(s)-in-fact (individually or collectively, my "Attorney"). I hereby authorize my Attorney (if more than one, acting together or alone), for me and in my name and stead, with respect to all property, real or personal, belonging to me to do and perform all acts and things, and to exercise all powers, which I could do, perform or exercise if personally present and acting, including, without hereby limiting the generality of the foregoing language, the power:

- (a) to endorse, and deposit or collect, checks, notes, drafts and other negotiable instruments;
- (b) to deposit and withdraw funds with and from any banking institution including the power to open new accounts, transfer between accounts, and close accounts in my name, to add my Attorney's name to any account, and to designate "payable on death" beneficiaries of any account;
- (c) to receive, collect, sell or exchange securities and other assets; to invest and reinvest funds;
- (d) to pay debts;
- (e) to begin, prosecute and defend actions, at law or in equity;
- (f) to compromise, adjust and settle claims;
- (g) to prepare, sign and file income tax returns or declarations of estimated tax for any year or years, to apply for and receive any income tax refund due me, to receive any communications with respect to any tax, and to appear for me and represent me before any federal, state, municipal or other agency in connection with any tax matter, to prosecute, defend, adjust, settle and compromise all claims of the United States or any state against the undersigned for taxes and all claims by the undersigned against the United States or any state for abatement, credit or refund of any taxes erroneously assessed or collected, and to execute, make oath to and file any and all claims for abatement and/or credit and/or refund of, and/or returns relating to taxes imposed by the United States or any state, to institute suits, attend all conferences and hearings before the Treasury Department of the United States or any state's taxing authority, and to inspect all tax returns, reports and any other papers on file with said Department or authority relating thereto;
- (h) to vote stock and give proxies therefor;
- (i) to buy, sell, lease; mortgage, repair, insure, improve, and generally to deal in and with all real estate, on such terms as my Attorney may deem proper and consistent with any contracts entered into by me;
- (j) to enter or close any safe deposit box, add to the contents thereof and to withdraw the contents thereof;
- (k) to disclaim and/or renounce in whole or in part any interest I might have in any property (including interests in trust) whether such interest was purchased or otherwise created by me or was acquired by gift, devise, or bequest from others, and irrespective of the fact that I might previously have accepted the benefits of the interest being disclaimed and/or renounced;
- (l) to execute and deliver deeds, bills of sale, contracts, agreements and other instruments in writing;
- (m) to make gifts of any asset of mine, and any interest in property which I may now have or may later acquire, including gifts to my Attorney(s) by my Attorney(s).
- (n) to prepare, sign and file gift tax returns with respect to gifts made by me or my Attorney, to consent to any gift and to utilize any gift splitting provisions or other tax elections,
- (o) to sign and acknowledge trusts, wills, deeds, and transfers of assets consistent with what my said attorney knows of my intentions for dispositions of my estate and efforts to reduce estate taxes, probate expenses, and to shelter and preserve assets from reduction of any kind; to revoke or amend any trust which permits revocation or amendment by me.
- (p) to renounce, decline or resign any fiduciary positions to which I have been or may be appointed

- (q) to add assets to or withdraw assets from any trust created by me or for my benefit;
- (r) to change the designated beneficiary of my life insurance, annuities, IRAs, 401(k) plans, etc.;
- (s) to change my state of domicile and residency;
- (t) to redirect my mail;
- (u) to apply on my behalf for public benefits, such as Supplemental Security Income or Medicaid, and for public entitlements, such as Medicare and Social Security;
- (v) to obtain and pay for health insurance for me; to obtain and pay for medical or healthcare services for me; to make necessary arrangements for my care at any hospital, nursing home, or assisted living facility and to pay for such care, consistent with the decisions in this regard by the duly appointed health care agent(s) of mine; to provide and pay for caregivers to permit me to remain at home, even if this care is more expensive than care provided in a facility;
- (w) to receive as an Authorized Recipient, which I designate my attorney hereby to be, and to sign releases of protected medical information to such additional Authorized Recipients as my attorney may select, for health care disclosure under the Standards for Privacy of Individually Identifiable Health Care Information (45 CFR Parts 160 and 164) under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and The Massachusetts Insurance Information and Privacy Act ("MIIPA");
- (x) to make advance arrangements for and prepay my funeral and burial;
- (y) to directly contact and have access to, without limitation, any and all school/college/university records, transcripts, grades, interim-grades, progress reports, attendance records or reports, advisory and disciplinary records and/or reports, tuition bills and records, and applications of any kind, that any school/ college/university department, agency or office, and any professors may have relating to me for any reason. This contact shall include permission for my Attorney to speak with any and all school/college/university employees, including but not limited to the dean, bursar or bursar's office, professors, head of departments, my advisor, and teaching assistants as it relates to me, my education and well-being, and to make decisions regarding any and all matters related to matriculation at such an institution, including but not limited to class enrollment and payment of educational expenses;
- (z) to obtain information about any and all financial aid, student loans, grants, and scholarship programs, and to apply for, access, maintain, consolidate, and terminate any such accounts or programs;
- (aa) to address, communicate with and otherwise represent me in any matter concerning residency related to matriculation at an educational institution, whether on-campus or off-campus, and regardless of a rental property's ownership by such educational institution or an independent, private third party, including but not limited to tenancy disputes, rental payments, and procurement of renter's insurance;
- (bb) to have access at any time or times to any e-mail accounts maintained by me, wheresoever said e-mail accounts may be maintained, and to have access to the contents of all e-mails thereof and any e-mail service provider shall not incur any liability to me or my estate as a result of permitting my Attorney to exercise this power; to have access at any time or times to all of my on-line accounts maintained by me, wheresoever said on-line accounts may be maintained, and to have full and complete access to the contents of the said on-line accounts; to permit my Attorney to have access at any time or times to all of my passwords associated with all electronic media and data, including, but not limited to, e-mail accounts, accounts at financial institutions, accounts associated with music and photograph storage, and so-called social media accounts specifically meaning and intending to include Facebook, LinkedIn, and Twitter, and any electronic media and data service provider shall not incur any liability to me or my estate as a result of permitting my Attorney to exercise this power;
- (cc) to access, modify, control, archive, transfer, and delete my digital assets, which include my sent and received emails, email accounts, digital music, digital photographs, digital videos, gaming accounts, software licenses, social-network accounts, file-sharing accounts, financial accounts, domain registrations, Domain Name System (DNS) service accounts, blogs, listservs, web-hosting accounts, tax-preparation service accounts, online stores and auction sites, online accounts, and any similar digital asset that currently exists or may be developed as technology advances. My digital assets may be stored on the cloud or on my own digital devices, which devices may include desktops, laptops, tablets,

peripherals, storage devices, mobile telephones, smartphones, and any similar hardware that currently exists or may be developed as technology advances. My Attorney may access, use, and control my digital devices in order to access, modify, control, archive, transfer, and delete my digital assets—this power is essential for access to my digital assets that are only accessible through my digital devices.

- (dd) to have access to my bank accounts, credit union accounts, brokerage accounts, and all other financial accounts in which I have an interest, by electronic means, specifically meaning and intending to include so-called on-line banking, bill paying and electronic transfer of funds; to obtain my password and user identification from any bank, credit union, trust company, brokerage firm, insurance company or other financial institution, whether chartered under federal law or the law of any state, and to change the same as my Attorney determines to be appropriate. I specifically release any bank, credit union, trust company, brokerage firm, insurance company or other financial institution, from any liability arising out of such institution's compliance with this provision. Further, I hereby authorize my Attorney to take all steps necessary, including bringing legal action and/or filing a complaint with the attorney general or other appropriate state or federal agency or department, against any bank, credit union, trust company, brokerage firm, insurance company or other financial institution, in which I have funds on deposit which refuses to allow my Attorney access to my accounts and all information concerning the same as provided herein; and
- (ee) to do any act which my Attorney deems necessary or desirable to carry out any of the foregoing powers;

In case of my death, this power of attorney shall, as to all things done hereunder by my said Attorney after my death but prior to my Attorney receiving reliable intelligence thereof, be as binding upon my executors, administrators and assigns as it would have been upon me if living. No person dealing in good faith with my Attorney need inquire into the propriety of any action taken by my Attorney, and any such person shall be free from any and all liability. I hereby ratify and confirm everything which my Attorney shall do hereunder.

This power of attorney shall not be affected by my subsequent disability or incapacity, or by lapse of time, it being my intent that this shall be a durable power of attorney within the meaning of M.G.L. c. 190B. Anyone may rely upon a copy of my signed Power of Attorney as fully as on the original instrument.

In the event protective proceedings for my person or estate are hereafter commenced, I hereby nominate and appoint, in accordance with 190B of the Massachusetts General Laws, my Attorney to be my conservator, the guardian of my estate and/or the guardian of my person, as applicable. I request that my Attorney be excused from furnishing bond or from furnishing surety on any bond required by law.

Witness my hand and seal this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

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***Commonwealth of Massachusetts***

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

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, the undersigned notary public, personally appeared \_\_\_\_\_  personally known to me /  proved to me through satisfactory evidence of identification, which was  current driver's license  other valid photo ID  ID by another person with valid ID or known to me  other: \_\_\_\_\_ to be the person whose name is signed on the preceding or attached document, and acknowledged to me that this document was signed voluntarily for its stated purpose.

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Notary Public

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

(Official Seal of Notary Public)