**DURABLE POWER OF ATTORNEY FOR HEALTH CARE DECISIONS**

**(STATUTORY FORM NRS 162A.860)**

**FOR**

**[FULL NAME]**

**WARNING TO PERSON EXECUTING THIS DOCUMENT**

THIS IS AN IMPORTANT LEGAL DOCUMENT. IT CREATES A DURABLE POWER OF ATTORNEY FOR HEALTH CARE. BEFORE EXECUTING THIS DOCUMENT, YOU SHOULD KNOW THESE IMPORTANT FACTS:

1.  THIS DOCUMENT GIVES THE PERSON YOU DESIGNATE AS YOUR AGENT THE POWER TO MAKE HEALTH CARE DECISIONS FOR YOU. THIS POWER IS SUBJECT TO ANY LIMITATIONS OR STATEMENT OF YOUR DESIRES THAT YOU INCLUDE IN THIS DOCUMENT. THE POWER TO MAKE HEALTH CARE DECISIONS FOR YOU MAY INCLUDE CONSENT, REFUSAL OF CONSENT OR WITHDRAWAL OF CONSENT TO ANY CARE, TREATMENT, SERVICE OR PROCEDURE TO MAINTAIN, DIAGNOSE OR TREAT A PHYSICAL OR MENTAL CONDITION. YOU MAY STATE IN THIS DOCUMENT ANY TYPES OF TREATMENT OR PLACEMENTS THAT YOU DO NOT DESIRE.

2.  THE PERSON YOU DESIGNATE IN THIS DOCUMENT HAS A DUTY TO ACT CONSISTENT WITH YOUR DESIRES AS STATED IN THIS DOCUMENT OR OTHERWISE MADE KNOWN OR, IF YOUR DESIRES ARE UNKNOWN, TO ACT IN YOUR BEST INTERESTS.

3.  EXCEPT AS YOU OTHERWISE SPECIFY IN THIS DOCUMENT, THE POWER OF THE PERSON YOU DESIGNATE TO MAKE HEALTH CARE DECISIONS FOR YOU MAY INCLUDE THE POWER TO CONSENT TO YOUR DOCTOR OR ADVANCED PRACTICE REGISTERED NURSE NOT GIVING TREATMENT OR STOPPING TREATMENT WHICH WOULD KEEP YOU ALIVE.

4.  UNLESS YOU SPECIFY A SHORTER PERIOD IN THIS DOCUMENT, THIS POWER WILL EXIST INDEFINITELY FROM THE DATE YOU EXECUTE THIS DOCUMENT AND, IF YOU ARE UNABLE TO MAKE HEALTH CARE DECISIONS FOR YOURSELF, THIS POWER WILL CONTINUE TO EXIST UNTIL THE TIME WHEN YOU BECOME ABLE TO MAKE HEALTH CARE DECISIONS FOR YOURSELF.

5.  NOTWITHSTANDING THIS DOCUMENT, YOU HAVE THE RIGHT TO MAKE MEDICAL AND OTHER HEALTH CARE DECISIONS FOR YOURSELF SO LONG AS YOU CAN GIVE INFORMED CONSENT WITH RESPECT TO THE PARTICULAR DECISION. IN ADDITION, NO TREATMENT MAY BE GIVEN TO YOU OVER YOUR OBJECTION, AND HEALTH CARE NECESSARY TO KEEP YOU ALIVE MAY NOT BE STOPPED IF YOU OBJECT.

6.  YOU HAVE THE RIGHT TO DECIDE WHERE YOU LIVE, EVEN AS YOU AGE. DECISIONS ABOUT WHERE YOU LIVE ARE PERSONAL. SOME PEOPLE LIVE AT HOME WITH SUPPORT, WHILE OTHERS MOVE TO ASSISTED LIVING FACILITIES OR FACILITIES FOR SKILLED NURSING. IN SOME CASES, PEOPLE ARE MOVED TO FACILITIES WITH LOCKED DOORS TO PREVENT PEOPLE WITH COGNITIVE DISORDERS FROM LEAVING OR GETTING LOST OR TO PROVIDE ASSISTANCE TO PEOPLE WHO REQUIRE A HIGHER LEVEL OF CARE. YOU SHOULD DISCUSS WITH THE PERSON DESIGNATED IN THIS DOCUMENT YOUR DESIRES ABOUT WHERE YOU LIVE AS YOU AGE OR IF YOUR HEALTH DECLINES. YOU HAVE THE RIGHT TO DETERMINE WHETHER TO AUTHORIZE THE PERSON DESIGNATED IN THIS DOCUMENT TO MAKE DECISIONS FOR YOU ABOUT WHERE YOU LIVE WHEN YOU ARE NO LONGER CAPABLE OF MAKING THAT DECISION. IF YOU DO NOT PROVIDE SUCH AUTHORIZATION TO THE PERSON DESIGNATED IN THIS DOCUMENT, THAT PERSON MAY NOT BE ABLE TO ASSIST YOU TO MOVE TO A MORE SUPPORTIVE LIVING ARRANGEMENT WITHOUT OBTAINING APPROVAL THROUGH A JUDICIAL PROCESS.

7.  YOU HAVE THE RIGHT TO REVOKE THE APPOINTMENT OF THE PERSON DESIGNATED IN THIS DOCUMENT TO MAKE HEALTH CARE DECISIONS FOR YOU BY NOTIFYING THAT PERSON OF THE REVOCATION ORALLY OR IN WRITING.

8.  YOU HAVE THE RIGHT TO REVOKE THE AUTHORITY GRANTED TO THE PERSON DESIGNATED IN THIS DOCUMENT TO MAKE HEALTH CARE DECISIONS FOR YOU BY NOTIFYING THE TREATING PHYSICIAN, ADVANCED PRACTICE REGISTERED NURSE, HOSPITAL OR OTHER PROVIDER OF HEALTH CARE ORALLY OR IN WRITING.

9.  THE PERSON DESIGNATED IN THIS DOCUMENT TO MAKE HEALTH CARE DECISIONS FOR YOU HAS THE RIGHT TO EXAMINE YOUR MEDICAL RECORDS AND TO CONSENT TO THEIR DISCLOSURE UNLESS YOU LIMIT THIS RIGHT IN THIS DOCUMENT.

10.  THIS DOCUMENT REVOKES ANY PRIOR DURABLE POWER OF ATTORNEY FOR HEALTH CARE.

11.  IF THERE IS ANYTHING IN THIS DOCUMENT THAT YOU DO NOT UNDERSTAND, YOU SHOULD ASK A LAWYER TO EXPLAIN IT TO YOU.

12.  YOU MAY REQUEST THAT THE NEVADA SECRETARY OF STATE ELECTRONICALLY STORE WITH THE NEVADA LOCKBOX A COPY OF THIS DOCUMENT TO ALLOW ACCESS BY AN AUTHORIZED PROVIDER OF HEALTH CARE AS DEFINED IN NRS 629.031

1. DESIGNATION OF HEALTH CARE AGENT.

I, [FULL NAME], do hereby designate and appoint:

[FULL NAME OF AGENT]

[ADDRESS OF AGENT]

[CITY, STATE, ZIP OF AGENT

[TELEPHONE NUMBERS OF AGENT]

as my attorney-in-fact to make health care decisions for me as authorized in this document.

(Insert the name and address of the person you wish to designate as your agent to make health care decisions for you. Unless the person is also your spouse, legal guardian or the person most closely related to you by blood, none of the following may be designated as your agent: (1) your treating provider of health care; (2) an employee of your treating provider of health care; (3) an operator of a health care facility; or (4) an employee of an operator of a health care facility.)

2.  CREATION OF DURABLE POWER OF ATTORNEY FOR HEALTH CARE.

By this document I intend to create a durable power of attorney by appointing the person designated above to make health care decisions for me. This power of attorney shall not be affected by my subsequent incapacity.

3.  GENERAL STATEMENT OF AUTHORITY GRANTED.

In the event that I am incapable of giving informed consent with respect to health care decisions, I hereby grant to the agent named above full power and authority: to make health care decisions for me before or after my death, including consent, refusal of consent or withdrawal of consent to any care, treatment, service or procedure to maintain, diagnose or treat a physical or mental condition; to request, review and receive any information, verbal or written, regarding my physical or mental health, including, without limitation, medical and hospital records; to execute on my behalf any releases or other documents that may be required to obtain medical care and/or medical and hospital records, EXCEPT any power to enter into any arbitration agreements or execute any arbitration clauses in connection with admission to any health care facility including any skilled nursing facility; and subject only to the limitations and special provisions, if any, set forth in paragraph 4 or 6.

4.  SPECIAL PROVISIONS AND LIMITATIONS.

(Your agent is not permitted to consent to any of the following: commitment to or placement in a mental health treatment facility, convulsive treatment, psychosurgery, sterilization or abortion. If there are any other types of treatment or placement that you do not want your agent’s authority to give consent for or other restrictions you wish to place on his or her agent’s authority, you should list them in the space below. If you do not write any limitations, your agent will have the broad powers to make health care decisions on your behalf which are set forth in paragraph 3, except to the extent that there are limits provided by law.)

In exercising the authority under this durable power of attorney for health care, the authority of my agent is subject to the following special provisions and limitations:

5.  DURATION.

I understand that this power of attorney will exist indefinitely from the date I execute this document unless I establish a shorter time. If I am unable to make health care decisions for myself when this power of attorney expires, the authority I have granted my agent will continue to exist until the time when I become able to make health care decisions for myself.

*(IF APPLICABLE)*

I wish to have this power of attorney end on the following date: .............................

6.  STATEMENT OF DESIRES CONCERNING TREATMENT.

(With respect to decisions to withhold or withdraw life-sustaining treatment, your agent must make health care decisions that are consistent with your known desires. You can, but are not required to, indicate your desires below. If your desires are unknown, your agent has the duty to act in your best interests; and, under some circumstances, a judicial proceeding may be necessary so that a court can determine the health care decision that is in your best interests. If you wish to indicate your desires, you may INITIAL the statement or statements that reflect your desires and/or write your own statements in the space below.)

*(If the statement reflects your desires, initial the box next to the statement.)*

[ ] A.  I desire that my life be prolonged to the greatest extent possible, without regard to my condition, the chances I have for recovery or long-term survival, or the cost of the procedures.

[ ] B.  If I am in a coma which my doctors or advanced practice registered nurses have reasonably concluded is irreversible, I desire that life-sustaining or prolonging treatments not be used.

[ ] C.  If I have an incurable or terminal condition or illness and no reasonable hope of long-term recovery or survival, I desire that life-sustaining or prolonging treatments not be used.

[ ] D.  Withholding or withdrawal of artificial nutrition and hydration may result in death by starvation or dehydration. I want to receive or continue receiving artificial nutrition and hydration by way of the gastrointestinal tract after all other treatment is withheld.

[ ] E.  I do not desire treatment to be provided and/or continued if the burdens of the treatment outweigh the expected benefits. My agent is to consider the relief of suffering, the preservation or restoration of functioning, and the quality as well as the extent of the possible extension of my life.

[ ] F.  If I have an incurable or terminal condition, including late-stage dementia, or illness and no reasonable hope of long-term recovery or survival, I desire my attending physician to administer any medication to alleviate suffering without regard that the medication is likely to cause addiction or reduce the extension of my life.

(If you wish to change your answer, you may do so by drawing an “X” through the answer you do not want, and circling the answer you prefer.)

Other or Additional Statements of Desires: ................................................................................................................................................................................................................................................................................................................................................................................................................................................

7.  STATEMENT OF DESIRES CONCERNING LIVING ARRANGEMENTS

[ ] A.  I desire to live in my home as long as it is safe and my medical needs can be met. My agent may arrange for a natural person, employee of an agency or provider of community-based services to come into my home to provide care for me. When it is no longer safe for me to live in my home, I authorize my agent to place me in a facility or home that can provide any medical assistance and support in my activities of daily living that I require. Before being placed in such a facility or home, I wish for my agent to discuss and share information concerning the placement with me.

[ ] B.  I desire to live in my home for as long as possible without regard for my medical needs, personal safety or ability to engage in activities of daily living. My agent may arrange for a natural person, an employee of an agency or a provider of community-based services to come into my home and provide care for me. I understand that, before I may be placed in a facility or home other than the home in which I currently reside, a guardian must be appointed for me.

*(If you wish to change your answer, you may do so by drawing an “X” through the answer you do not want, and circling the answer you prefer.)*

Other or Additional Statements of Desires: ....................................................................................................................................................................................................................................................................................................................................................................................................................................................................................

8.  DESIGNATION OF ALTERNATE AGENT.

*(You are not required to designate any alternative agent but you may do so. Any alternative agent you designate will be able to make the same health care decisions as the agent designated in paragraph 1, page 3, in the event that he or she is unable or unwilling to act as your agent. Also, if the agent designated in paragraph 1 is your spouse, his or her designation as your agent is automatically revoked by law if your marriage is dissolved.)*

If the person designated in paragraph 1, page 3, as my agent is unable to make health care decisions for me, then I designate the following persons to serve as my agent to make health care decisions for me as authorized in this document, such persons to serve in the order listed below:

A.  First Alternative Agent

Name: ....................................................................................................

Address: ................................................................................................

Telephone Number: ............................................................................

B.  Second Alternative Agent

Name: ....................................................................................................

Address: ................................................................................................

Telephone Number: ............................................................................

9.  PRIOR DESIGNATIONS REVOKED.

I revoke any prior durable power of attorney for health care.

10.  WAIVER OF CONFLICT OF INTEREST.

If my designated agent is my spouse or is one of my children, then I waive any conflict of interest in carrying out the provisions of this Durable Power of Attorney for Health Care that said spouse or child may have by reason of the fact that he or she may be a beneficiary of my estate.

11.  CHALLENGES.

If the legality of any provision of this Durable Power of Attorney for Health Care is questioned by my physician, my advanced practice registered nurse, my agent or a third party, then my agent is authorized to commence an action for declaratory judgment as to the legality of the provision in question. The cost of any such action is to be paid from my estate. This Durable Power of Attorney for Health Care must be construed and interpreted in accordance with the laws of the State of Nevada.

12.  NOMINATION OF GUARDIAN.

If, after execution of this Durable Power of Attorney for Health Care, proceedings seeking an adjudication of incapacity are initiated either for my estate or my person, I hereby nominate as my guardian or conservator for consideration by the court my agent(s) herein named, in the order named.

13.  RELEASE OF INFORMATION.

I agree to, authorize and allow full release of information by any government agency, medical provider, business, creditor or third party who may have information pertaining to my health care, to my agent named herein, pursuant to the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104-191, as amended, and applicable regulations.

*(YOU MUST DATE AND SIGN THIS POWER OF ATTORNEY)*

*(THIS POWER OF ATTORNEY WILL NOT BE VALID FOR MAKING HEALTH CARE DECISIONS UNLESS IT IS EITHER (1) SIGNED BY AT LEAST TWO QUALIFIED WITNESSES WHO ARE PERSONALLY KNOWN TO YOU AND WHO ARE PRESENT WHEN YOU SIGN OR ACKNOWLEDGE YOUR SIGNATURE OR (2) ACKNOWLEDGED BEFORE A NOTARY PUBLIC.)*

I sign my name to this Durable Power of Attorney for Health Care on .............. (date) at .............................. (city), ......................... (state)

.......................................................

(Signature)

CERTIFICATE OF ACKNOWLEDGMENT

OF NOTARY PUBLIC

(You may use acknowledgment before a notary public instead of the statement of witnesses.)

State of Nevada }

County of................................................ }

On this................ day of................, in the year..., before me,.................................... (insert name of notary public) personally appeared........................................ (insert name of principal) personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to this instrument, and acknowledged that he or she executed it.

...............................................................

(Signature of Notary Public)

STATEMENT OF WITNESSES

*(You should carefully read and follow this witnessing procedure. This document will not be valid unless you comply with the witnessing procedure. If you elect to use witnesses instead of having this document notarized, you must use two qualified adult witnesses.* ***None of the following may be used as a witness****: (1) a person you designate as the agent; (2) a provider of health care; (3) an employee of a provider of health care; (4) the operator of a health care facility; or (5) an employee of an operator of a health care facility. At least one of the witnesses must make the additional declaration set out following the place where the witnesses sign.)*

I declare under penalty of perjury that the principal is personally known to me, that the principal signed or acknowledged this durable power of attorney in my presence, that the principal appears to be of sound mind and under no duress, fraud or undue influence, that I am not the person appointed as agent by this document and that I am not a provider of health care, an employee of a provider of health care, the operator of a health care facility or an employee of an operator of a health care facility.

Signature: .............................. Residence Address: ..................................

Print Name: .......................... .......................................................................

Date: ...................................... .......................................................................

Signature: .............................. Residence Address: ..................................

Print Name: .......................... .......................................................................

Date: ...................................... .......................................................................

(AT LEAST ONE OF THE ABOVE WITNESSES MUST ALSO SIGN THE FOLLOWING DECLARATION.)

I declare under penalty of perjury that I am not related to the principal by blood, marriage or adoption and that to the best of my knowledge, I am not entitled to any part of the estate of the principal upon the death of the principal under a will now existing or by operation of law.

Signature: ...............................................

Signature: ...............................................

COPIES:  You should retain an executed copy of this document and give one to your agent. The power of attorney should be available so a copy may be given to your providers of health care. This includes requesting the Nevada Secretary of State to electronically store this document with the Nevada Lockbox to allow access by authorized providers of healthcare.

**Tips and suggestions when drafting any document or agreement.**

* If you are working from an example or form, save the original, and work with a copy so you can get back to where you started should you lose your work.
* A contract or written agreement is a way to create your own law for a specific situation not contemplated by your elected lawmakers. It is personal to you.
* The basic contract has three elements: (1) an offer; (2) an acceptance; (3) some legal consideration (e.g. cash payment), or legal detriment (e.g. giving up something you have a right or entitlement for).
* Make sure that all parties know what they want, what their goals are, what they are expressly asking for in the agreement, and know what they are expressly going to get from entering into the agreement.  Be specific!
* Better to include all deal points than leave anything vague.  This includes anything that the parties discussed, no matter how customary or obvious it is that a deal point is part of the agreement.  If it’s not mentioned, it may not be enforceable. Be specific!
* Allow each party to spend a reasonable amount of time reviewing the agreement and/or consult with an attorney.  If anyone feels rushed, that person will be the first to cry foul if there is a bump in the road later.
* Better to have a “win-win” agreement than a one-sided agreement.  Every party is likely to give up a little something to make the agreement work, but if one party feels taken advantage of, the chances are the terms of agreement will eventually be breached.
* Make sure that all of the parties to the agreement have the capacity to enter into the contract.  This means that all individuals are of age (usually 18, but check local law to be sure!), are not deemed incompetent, and for an entity (corporation, LLC, non-profit, etc.), that the person signing as a representative of the entity has the authority from the entity to enter into the contract.  If you are not sure, get a personal guarantee.
* Make sure that nothing about the agreement is illegal or seems morally repugnant or wrong, chances are that anything like that will make the agreement illegal, void, voidable, or unenforceable.
* A little extra work up-front can prevent expensive lawsuits later.
* Format the document so that there are no “orphan” pages.  (i.e. make sure that the signature page(s) have part of the body of the agreement included on the page).  This helps prevent a challenge at a later date that the signature page may have been fraudulently replaced.
* Sign multiple copies of the agreement, one for each party to the agreement.
* Depending on the nature of the agreement, its signing may, by law, be required to be witnessed or notarized.  Check before signing.  You may want to have an agreement witnessed or notarized, even when not required by law, as this may prevent later challenges to the validity of the agreement or the signature of a party.
* If you find that you are confused, or that a form may not be sufficient, or flexible enough to memorialize your agreement, by all means, contact an attorney!