BILL REQUEST - CODE REVISER'S OFFICE

BILL REQ. #: Z-0733.1/08

ATTY/TYPIST: BLP:seg

BRIEF DESCRIPTION: Enacting the uniform power of attorney act.

AN ACT Relating to the uniform power of attorney act; amending RCW 11.86.021, 11.88.010, 30.22.170, 70.122.130, 71.32.020, 71.32.050, 71.32.060, 71.32.100, 71.32.180, 71.32.200, and 71.32.260; adding a new chapter to Title 11 RCW; and repealing RCW 11.94.010, 11.94.020, 11.94.030, 11.94.040, 11.94.043, 11.94.046, 11.94.050, 11.94.060, 11.94.070, 11.94.080, 11.94.090, 11.94.110, 11.94.120, 11.94.130, 11.94.140, and 11.94.150.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

PART 1
GENERAL PROVISIONS

NEW SECTION. **Sec. 101.** DEFINITIONS. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Agent" means a person granted authority to act for a principal under a power of attorney, whether denominated an agent, attorney-in-fact, or otherwise. The term includes an original agent, coagent, successor agent, and a person to which an agent's authority is delegated.

(2) "Durable," with respect to a power of attorney, means not terminated by the principal's incapacity.

(3) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(4) "Good faith" means honesty in fact.

(5) "Incapacity" means inability of an individual to manage property or business affairs because the individual:

(a) Has an impairment in the ability to receive and evaluate information or make or communicate decisions even with the use of technological assistance; or

(b) Is:

(i) Missing;

(ii) Detained, including incarcerated in a penal system; or

(iii) Outside the United States and unable to return.

(6) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, two or more persons having a joint or common interest, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(7) "Power of attorney" means a writing or other record that grants authority to an agent to act in the place of the principal, whether or not the term power of attorney is used.

(8) "Presently exercisable general power of appointment," with respect to property or a property interest subject to a power of appointment, means power exercisable at the time in question to vest absolute ownership in the principal individually, the principal's estate, the principal's creditors, or the creditors of the principal's estate. The term includes a power of appointment not exercisable until the occurrence of a specified event, the satisfaction of an ascertainable standard, or the passage of a specified period only after the occurrence of the specified event, the satisfaction of the ascertainable standard, or the passage of the specified period. The term does not include a power exercisable in a fiduciary capacity or only by will.

(9) "Principal" means an individual who grants authority to an agent in a power of attorney.

(10) "Property" means anything that may be the subject of ownership, whether real or personal, or legal or equitable, or any interest or right therein.

(11) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(12) "Sign" means, with present intent to authenticate or adopt a record:

(a) To execute or adopt a tangible symbol; or

(b) To attach to or logically associate with the record an electronic sound, symbol, or process.

(13) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(14) "Stocks and bonds" means stocks, bonds, mutual funds, and all other types of securities and financial instruments, whether held directly, indirectly, or in any other manner. The term does not include commodity futures contracts and call or put options on stocks or stock indexes.

NEW SECTION. **Sec. 102.** APPLICABILITY. This chapter applies to all powers of attorney except:

(1) A power to the extent it is coupled with an interest in the subject of the power, including a power given to or for the benefit of a creditor in connection with a credit transaction;

(2) A power to make health care decisions;

(3) A proxy or other delegation to exercise voting rights or management rights with respect to an entity; and

(4) A power created on a form prescribed by a government or governmental subdivision, agency, or instrumentality for a governmental purpose.

NEW SECTION. **Sec. 103.** POWER OF ATTORNEY IS DURABLE. A power of attorney created under this chapter is durable unless it expressly provides that it is terminated by the incapacity of the principal.

NEW SECTION. **Sec. 104.** EXECUTION OF POWER OF ATTORNEY. A power of attorney must be signed by the principal or in the principal's conscious presence by another individual directed by the principal to sign the principal's name on the power of attorney. A signature on a power of attorney is presumed to be genuine if the principal acknowledges the signature before a notary public or other individual authorized by law to take acknowledgments.

NEW SECTION. **Sec. 105.** VALIDITY OF POWER OF ATTORNEY. (1) A power of attorney executed in this state on or after the effective date of this act is valid if its execution complies with section 104 of this act.

(2) A power of attorney executed in this state before the effective date of this act is valid if its execution complied with the law of this state as it existed at the time of execution.

(3) A power of attorney executed other than in this state is valid in this state if, when the power of attorney was executed, the execution complied with:

(a) The law of the jurisdiction that determines the meaning and effect of the power of attorney pursuant to section 106 of this act; or

(b) The requirements for a military power of attorney pursuant to 10 U.S.C. Sec. 1044b.

(4) Except as otherwise provided by statute other than this chapter, a photocopy or electronically transmitted copy of an original power of attorney has the same effect as the original.

NEW SECTION. **Sec. 106.** MEANING AND EFFECT OF POWER OF ATTORNEY. The meaning and effect of a power of attorney is determined by the law of the jurisdiction indicated in the power of attorney and, in the absence of an indication of jurisdiction, by the law of the jurisdiction in which the power of attorney was executed.

NEW SECTION. **Sec. 107.** NOMINATION OF GUARDIAN--RELATION OF AGENT TO COURT-APPOINTED FIDUCIARY. (1) In a power of attorney, a principal may nominate a guardian of the principal's estate or guardian of the principal's person for consideration by the court if protective proceedings for the principal's estate or person are begun after the

principal executes the power of attorney. Except for good cause shown or disqualification, the court shall make its appointment in accordance with the principal's most recent nomination.

(2) If, after a principal executes a power of attorney, a court appoints a guardian of the principal's estate or other fiduciary charged with the management of some or all of the principal's property, the agent is accountable to the fiduciary as well as to the principal. The power of attorney is not terminated and the agent's authority continues unless limited, suspended, or terminated by the court.

NEW SECTION. **Sec. 108.** WHEN POWER OF ATTORNEY EFFECTIVE. (1) A power of attorney is effective when executed unless the principal provides in the power of attorney that it becomes effective at a future date or upon the occurrence of a future event or contingency.

(2) If a power of attorney becomes effective upon the occurrence of a future event or contingency, the principal, in the power of attorney, may authorize one or more persons to determine in a writing or other record that the event or contingency has occurred.

(3) If a power of attorney becomes effective upon the principal's incapacity and the principal has not authorized a person to determine whether the principal is incapacitated, or the person authorized is unable or unwilling to make the determination, the power of attorney becomes effective upon a determination in a writing or other record by:

(a) A physician that the principal is incapacitated within the meaning of section 101(5)(a) of this act; or

(b) An attorney-at-law, a judge, or an appropriate governmental official that the principal is incapacitated within the meaning of section 101(5)(b) of this act.

(4) A person authorized by the principal in the power of attorney to determine that the principal is incapacitated may act as the principal's personal representative pursuant to the health insurance portability and accountability act of 1996 (P.L. 104-191; 110 Stat. 2033), 42 U.S.C. Sec. 1320d, and applicable regulations, to obtain access to the principal's health care information and communicate with the principal's health care provider.

NEW SECTION. **Sec. 109.** TERMINATION OF POWER OF ATTORNEY OR AGENT'S AUTHORITY. (1) A power of attorney terminates when:

(a) The principal dies;

(b) The principal becomes incapacitated, if the power of attorney is not durable;

(c) The principal revokes the power of attorney;

(d) The power of attorney provides that it terminates;

(e) The purpose of the power of attorney is accomplished; or

(f) The principal revokes the agent's authority or the agent dies, becomes incapacitated, or resigns, and the power of attorney does not provide for another agent to act under the power of attorney.

(2) An agent's authority terminates when:

(a) The principal revokes the authority;

(b) The agent dies, becomes incapacitated, or resigns;

(c) An action is filed for the dissolution or annulment of the agent's marriage to the principal or their legal separation, unless the power of attorney otherwise provides; or

(d) The power of attorney terminates.

(3) Unless the power of attorney otherwise provides, an agent's authority is exercisable until the authority terminates under subsection (2) of this section, notwithstanding a lapse of time since the execution of the power of attorney.

(4) Termination of an agent's authority or of a power of attorney is not effective as to the agent or another person that, without actual knowledge of the termination, acts in good faith under the power of attorney. An act so performed, unless otherwise invalid or unenforceable, binds the principal and the principal's successors in interest.

(5) Incapacity of the principal of a power of attorney that is not durable does not revoke or terminate the power of attorney as to an agent or other person that, without actual knowledge of the incapacity, acts in good faith under the power of attorney. An act so performed, unless otherwise invalid or unenforceable, binds the principal and the principal's successors in interest.

(6) The execution of a power of attorney does not revoke a power of attorney previously executed by the principal unless the subsequent power of attorney provides that the previous power of attorney is revoked or that all other powers of attorney are revoked.

NEW SECTION. **Sec. 110.** COAGENTS AND SUCCESSOR AGENTS. (1) A principal may designate two or more persons to act as coagents. Unless the power of attorney otherwise provides, each coagent may exercise his or her authority independently.

(2) A principal may designate one or more successor agents to act if an agent resigns, dies, becomes incapacitated, is not qualified to serve, or declines to serve. A principal may grant authority to designate one or more successor agents to an agent or other person designated by name, office, or function. Unless the power of attorney otherwise provides, a successor agent:

(a) Has the same authority as that granted to the original agent; and

(b) May not act until all predecessor agents have resigned, died, become incapacitated, are no longer qualified to serve, or have declined to serve.

(3) Except as otherwise provided in the power of attorney and subsection (4) of this section, an agent that does not participate in or conceal a breach of fiduciary duty committed by another agent, including a predecessor agent, is not liable for the actions of the other agent.

(4) An agent that has actual knowledge of a breach or imminent breach of fiduciary duty by another agent shall notify the principal and, if the principal is incapacitated, take any action reasonably appropriate in the circumstances to safeguard the principal's best interest. An agent that fails to notify the principal or take action as required by this subsection is liable for the reasonably foreseeable damages that could have been avoided if the agent had notified the principal or taken such action.

NEW SECTION. **Sec. 111.** REIMBURSEMENT AND COMPENSATION OF AGENT. Unless the power of attorney otherwise provides, an agent is entitled to reimbursement of expenses reasonably incurred on behalf of the principal and to compensation that is reasonable under the circumstances.

NEW SECTION. **Sec. 112.** AGENT'S ACCEPTANCE. Except as otherwise provided in the power of attorney, a person accepts appointment as an

agent under a power of attorney by exercising authority or performing duties as an agent or by any other assertion or conduct indicating acceptance.

NEW SECTION. **Sec. 113.** AGENT'S DUTIES. (1) Notwithstanding provisions in the power of attorney, an agent that has accepted appointment shall:

(a) Act in accordance with the principal's reasonable expectations to the extent actually known by the agent and, otherwise, in the principal's best interest;

(b) Act in good faith; and

(c) Act only within the scope of authority granted in the power of attorney.

(2) Except as otherwise provided in the power of attorney, an agent that has accepted appointment shall:

(a) Act loyally for the principal's benefit;

(b) Act so as not to create a conflict of interest that impairs the agent's ability to act impartially in the principal's best interest;

(c) Act with the care, competence, and diligence ordinarily exercised by agents in similar circumstances;

(d) Keep a record of all receipts, disbursements, and transactions made on behalf of the principal;

(e) Cooperate with a person that has authority to make health care decisions for the principal to carry out the principal's reasonable expectations to the extent actually known by the agent and, otherwise, act in the principal's best interest; and

(f) Attempt to preserve the principal's estate plan, to the extent actually known by the agent, if preserving the plan is consistent with the principal's best interest based on all relevant factors, including:

(i) The value and nature of the principal's property;

(ii) The principal's foreseeable obligations and need for maintenance;

(iii) Minimization of taxes, including income, estate, inheritance, generation-skipping transfer, and gift taxes; and

(iv) Eligibility for a benefit, a program, or assistance under a statute or regulation.

(3) An agent that acts in good faith is not liable to any

beneficiary of the principal's estate plan for failure to preserve the plan.

(4) An agent that acts with care, competence, and diligence for the best interest of the principal is not liable solely because the agent also benefits from the act or has an individual or conflicting interest in relation to the property or affairs of the principal.

(5) If an agent is selected by the principal because of special skills or expertise possessed by the agent or in reliance on the agent's representation that the agent has special skills or expertise, the special skills or expertise must be considered in determining whether the agent has acted with care, competence, and diligence under the circumstances.

(6) Absent a breach of duty to the principal, an agent is not liable if the value of the principal's property declines.

(7) An agent that exercises authority to delegate to another person the authority granted by the principal or that engages another person on behalf of the principal is not liable for an act, error of judgment, or default of that person if the agent exercises care, competence, and diligence in selecting and monitoring the person.

(8) Except as otherwise provided in the power of attorney, an agent is not required to disclose receipts, disbursements, or transactions conducted on behalf of the principal unless ordered by a court or requested by the principal, a guardian, a conservator, another fiduciary acting for the principal, a governmental agency having authority to protect the welfare of the principal, or, upon the death of the principal, by the personal representative or successor in interest of the principal's estate. If so requested, within thirty days the agent shall comply with the request or provide a writing or other record substantiating why additional time is needed and shall comply with the request within an additional thirty days.

NEW SECTION. **Sec. 114.** EXONERATION OF AGENT. A provision in a power of attorney relieving an agent of liability for breach of duty is binding on the principal and the principal's successors in interest except to the extent the provision:

(1) Relieves the agent of liability for breach of duty committed dishonestly, with an improper motive, or with reckless indifference to

the purposes of the power of attorney or the best interest of the principal; or

(2) Was inserted as a result of an abuse of a confidential or fiduciary relationship with the principal.

NEW SECTION. **Sec. 115.** JUDICIAL RELIEF. (1) The following persons may petition a court to construe a power of attorney or review the agent's conduct, and grant appropriate relief:

(a) The principal or the agent;

(b) A guardian, conservator, or other fiduciary acting for the principal;

(c) A person authorized to make health care decisions for the principal;

(d) The principal's spouse, parent, or descendant;

(e) An individual who would qualify as a presumptive heir of the principal;

(f) A person named as a beneficiary to receive any property, benefit, or contractual right on the principal's death or as a beneficiary of a trust created by or for the principal that has a financial interest in the principal's estate;

(g) A governmental agency having regulatory authority to protect the welfare of the principal;

(h) The principal's caregiver or another person that demonstrates sufficient interest in the principal's welfare; and

(i) A person asked to accept the power of attorney.

(2) Upon motion by the principal, the court shall dismiss a petition filed under this section, unless the court finds that the principal lacks capacity to revoke the agent's authority or the power of attorney.

NEW SECTION. **Sec. 116.** AGENT'S LIABILITY. An agent that violates this chapter is liable to the principal or the principal's successors in interest for the amount required to:

(1) Restore the value of the principal's property to what it would have been had the violation not occurred; and

(2) Reimburse the principal or the principal's successors in interest for the attorneys' fees and costs paid on the agent's behalf.

NEW SECTION. **Sec. 117.** AGENT'S RESIGNATION--NOTICE. Unless the power of attorney provides a different method for an agent's resignation, an agent may resign by giving notice to the principal and, if the principal is incapacitated:

(1) To the guardian, if one has been appointed for the principal, and a coagent or successor agent; or

(2) If there is no person described in subsection (1) of this section, to:

(a) The principal's caregiver;

(b) Another person reasonably believed by the agent to have sufficient interest in the principal's welfare; or

(c) A governmental agency having authority to protect the welfare of the principal.

NEW SECTION. **Sec. 118.** ACCEPTANCE OF AND RELIANCE UPON ACKNOWLEDGED POWER OF ATTORNEY. (1) For purposes of this section and section 119 of this act, "acknowledged" means purportedly verified before a notary public or other individual authorized to take acknowledgments.

(2) A person that in good faith accepts an acknowledged power of attorney without actual knowledge that the signature is not genuine may rely upon the presumption under section 104 of this act that the signature is genuine.

(3) A person that in good faith accepts an acknowledged power of attorney without actual knowledge that the power of attorney is void, invalid, or terminated, that the purported agent's authority is void, invalid, or terminated, or that the agent is exceeding or improperly exercising the agent's authority may rely upon the power of attorney as if the power of attorney was genuine, valid, and still in effect, the agent's authority was genuine, valid, and still in effect, and the agent had not exceeded and had properly exercised the authority.

(4) A person that is asked to accept an acknowledged power of attorney may request, and rely upon, without further investigation:

(a) An agent's certification under penalty of perjury of any factual matter concerning the principal, agent, or power of attorney;

(b) An English translation of the power of attorney if the power of attorney contains, in whole or in part, language other than English; and

(c) An opinion of counsel as to any matter of law concerning the power of attorney if the person making the request provides in a writing or other record the reason for the request.

(5) An English translation or an opinion of counsel requested under this section must be provided at the principal's expense unless the request is made more than seven business days after the power of attorney is presented for acceptance.

(6) For purposes of this section and section 119 of this act, a person that conducts activities through employees is without actual knowledge of a fact relating to a power of attorney, a principal, or an agent if the employee conducting the transaction involving the power of attorney is without actual knowledge of the fact.

NEW SECTION. **Sec. 119.** LIABILITY FOR REFUSAL TO ACCEPT ACKNOWLEDGED POWER OF ATTORNEY. (1) Except as otherwise provided in subsection (2) of this section:

(a) A person shall either accept an acknowledged power of attorney or request a certification, a translation, or an opinion of counsel under section 118(4) of this act no later than seven business days after presentation of the power of attorney for acceptance;

(b) If a person requests a certification, a translation, or an opinion of counsel under section 118(4) of this act, the person shall accept the power of attorney no later than five business days after receipt of the certification, translation, or opinion of counsel; and

(c) A person may not require an additional or different form of power of attorney for authority granted in the power of attorney presented.

(2) A person is not required to accept an acknowledged power of attorney if:

(a) The person is not otherwise required to engage in a transaction with the principal in the same circumstances;

(b) Engaging in a transaction with the agent or the principal in the same circumstances would be inconsistent with federal law;

(c) The person has actual knowledge of the termination of the agent's authority or of the power of attorney before exercise of the power;

(d) A request for a certification, a translation, or an opinion of counsel under section 114(4) of this act is refused;

(e) The person in good faith believes that the power is not valid or that the agent does not have the authority to perform the act requested, whether or not a certification, a translation, or an opinion of counsel under section 118(4) of this act has been requested or provided; or

(f) The person makes, or has actual knowledge that another person has made, a report to the local adult protective services office stating a good faith belief that the principal may be subject to physical or financial abuse, neglect, exploitation, or abandonment by the agent or a person acting for or with the agent.

(3) A person that refuses to accept an acknowledged power of attorney in violation of this section is subject to:

(a) A court order mandating acceptance of the power of attorney; and

(b) Liability for reasonable attorneys' fees and costs incurred in any action or proceeding that confirms the validity of the power of attorney or mandates acceptance of the power of attorney.

NEW SECTION. **Sec. 120.** PRINCIPLES OF LAW AND EQUITY. Unless displaced by a provision of this chapter, the principles of law and equity supplement this chapter.

NEW SECTION. **Sec. 121.** LAWS APPLICABLE TO FINANCIAL INSTITUTIONS AND ENTITIES. This chapter does not supersede any other law applicable to financial institutions or other entities, and the other law controls if inconsistent with this chapter.

NEW SECTION. **Sec. 122.** REMEDIES UNDER OTHER LAW. The remedies under this chapter are not exclusive and do not abrogate any right or remedy under the law of this state other than this chapter.

PART 2
AUTHORITY

NEW SECTION. **Sec. 201.** AUTHORITY THAT REQUIRES SPECIFIC GRANT--GRANT OF GENERAL AUTHORITY. (1) An agent under a power of attorney may do the following on behalf of the principal or with the principal's property only if the power of attorney expressly grants the agent the

authority and exercise of the authority is not otherwise prohibited by another agreement or instrument to which the authority or property is subject:

(a) Create, amend, revoke, or terminate an inter vivos trust;

(b) Make a gift;

(c) Create or change rights of survivorship;

(d) Create or change a beneficiary designation;

(e) Delegate authority granted under the power of attorney;

(f) Waive the principal's right to be a beneficiary of a joint and survivor annuity, including a survivor benefit under a retirement plan; or

(g) Exercise fiduciary powers that the principal has authority to delegate.

(2) Notwithstanding a grant of authority to do an act described in subsection (1) of this section, unless the power of attorney otherwise provides, an agent that is not an ancestor, spouse, or descendant of the principal may not exercise authority under a power of attorney to create in the agent, or in an individual to whom the agent owes a legal obligation of support, an interest in the principal's property, whether by gift, right of survivorship, beneficiary designation, disclaimer, or otherwise.

(3) Subject to subsections (1), (2), (4), and (5) of this section, if a power of attorney grants to an agent authority to do all acts that a principal could do, the agent has the general authority described in sections 204 through 216 of this act.

(4) Unless the power of attorney otherwise provides, a grant of authority to make a gift is subject to section 217 of this act.

(5) Subject to subsections (1), (2), and (4) of this section, if the subjects over which authority is granted in a power of attorney are similar or overlap, the broadest authority controls.

(6) Authority granted in a power of attorney is exercisable with respect to property that the principal has when the power of attorney is executed or acquires later, whether or not the property is located in this state and whether or not the authority is exercised or the power of attorney is executed in this state.

(7) An act performed by an agent pursuant to a power of attorney has the same effect and inures to the benefit of and binds the

principal and the principal's successors in interest as if the principal had performed the act.

NEW SECTION. **Sec. 202.** INCORPORATION OF AUTHORITY. (1) An agent has authority described in sections 201 through 217 of this act if the power of attorney refers to general authority with respect to the descriptive term for the subjects stated in sections 204 through 217 of this act or cites the section in which the authority is described.

(2) A reference in a power of attorney to general authority with respect to the descriptive term for a subject in sections 204 through 217 of this act or a citation to a subsection of sections 204 through 217 of this act incorporates the entire section as if it were set out in full in the power of attorney.

(3) A principal may modify authority incorporated by reference.

NEW SECTION. **Sec. 203.** CONSTRUCTION OF AUTHORITY GENERALLY. Except as otherwise provided in the power of attorney, by executing a power of attorney that incorporates by reference a subject described in sections 204 through 217 of this act or that grants to an agent authority to do all acts that a principal could do pursuant to section 201(3) of this act, a principal authorizes the agent, with respect to that subject, to:

(1) Demand, receive, and obtain by litigation or otherwise, money or another thing of value to which the principal is, may become, or claims to be entitled, and conserve, invest, disburse, or use anything so received or obtained for the purposes intended;

(2) Contract in any manner with any person, on terms agreeable to the agent, to accomplish a purpose of a transaction and perform, rescind, cancel, terminate, reform, restate, release, or modify the contract or another contract made by or on behalf of the principal;

(3) Execute, acknowledge, seal, deliver, file, or record any instrument or communication the agent considers desirable to accomplish a purpose of a transaction, including creating at any time a schedule listing some or all of the principal's property and attaching it to the power of attorney;

(4) Initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with

respect to a claim existing in favor of or against the principal or intervene in litigation relating to the claim;

(5) Seek on the principal's behalf the assistance of a court or other governmental agency to carry out an act authorized in the power of attorney;

(6) Engage, compensate, and discharge an attorney, accountant, discretionary investment manager, expert witness, or other advisor;

(7) Prepare, execute, and file a record, report, or other document to safeguard or promote the principal's interest under a statute or regulation;

(8) Communicate with any representative or employee of a government or governmental subdivision, agency, or instrumentality, on behalf of the principal;

(9) Access communications intended for, and communicate on behalf of the principal, whether by mail, electronic transmission, telephone, or other means; and

(10) Do any lawful act with respect to the subject and all property related to the subject.

NEW SECTION. **Sec. 204.** REAL PROPERTY. Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to real property authorizes the agent to:

(1) Demand, buy, lease, receive, accept as a gift or as security for an extension of credit, or otherwise acquire or reject an interest in real property or a right incident to real property;

(2) Sell; exchange; convey with or without covenants, representations, or warranties; quitclaim; release; surrender; retain title for security; encumber; partition; consent to partitioning; subject to an easement or covenant; subdivide; apply for zoning or other governmental permits; plat or consent to platting; develop; grant an option concerning; lease; sublease; contribute to an entity in exchange for an interest in that entity; or otherwise grant or dispose of an interest in real property or a right incident to real property;

(3) Pledge or mortgage an interest in real property or right incident to real property as security to borrow money or pay, renew, or extend the time of payment of a debt of the principal or a debt guaranteed by the principal;

(4) Release, assign, satisfy, or enforce by litigation or otherwise a mortgage, deed of trust, conditional sale contract, encumbrance, lien, or other claim to real property that exists or is asserted;

(5) Manage or conserve an interest in real property or a right incident to real property owned or claimed to be owned by the principal, including:

(a) Insuring against liability or casualty or other loss;

(b) Obtaining or regaining possession of or protecting the interest or right by litigation or otherwise;

(c) Paying, assessing, compromising, or contesting taxes or assessments or applying for and receiving refunds in connection with them; and

(d) Purchasing supplies, hiring assistance or labor, and making repairs or alterations to the real property;

(6) Use, develop, alter, replace, remove, erect, or install structures or other improvements upon real property in or incident to which the principal has, or claims to have, an interest or right;

(7) Participate in a reorganization with respect to real property or an entity that owns an interest in or right incident to real property and receive, and hold, and act with respect to stocks and bonds or other property received in a plan of reorganization, including:

(a) Selling or otherwise disposing of them;

(b) Exercising or selling an option, right of conversion, or similar right with respect to them; and

(c) Exercising any voting rights in person or by proxy;

(8) Change the form of title of an interest in or right incident to real property; and

(9) Dedicate to public use, with or without consideration, easements or other real property in which the principal has, or claims to have, an interest.

NEW SECTION. **Sec. 205.** TANGIBLE PERSONAL PROPERTY. Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to tangible personal property authorizes the agent to:

(1) Demand, buy, receive, accept as a gift or as security for an

extension of credit, or otherwise acquire or reject ownership or possession of tangible personal property or an interest in tangible personal property;

(2) Sell; exchange; convey with or without covenants, representations, or warranties; quitclaim; release; surrender; create a security interest in; grant options concerning; lease; sublease; or, otherwise dispose of tangible personal property or an interest in tangible personal property;

(3) Grant a security interest in tangible personal property or an interest in tangible personal property as security to borrow money or pay, renew, or extend the time of payment of a debt of the principal or a debt guaranteed by the principal;

(4) Release, assign, satisfy, or enforce by litigation or otherwise, a security interest, lien, or other claim on behalf of the principal, with respect to tangible personal property or an interest in tangible personal property;

(5) Manage or conserve tangible personal property or an interest in tangible personal property on behalf of the principal, including:

(a) Insuring against liability or casualty or other loss;

(b) Obtaining or regaining possession of or protecting the property or interest, by litigation or otherwise;

(c) Paying, assessing, compromising, or contesting taxes or assessments or applying for and receiving refunds in connection with taxes or assessments;

(d) Moving the property from place to place;

(e) Storing the property for hire or on a gratuitous bailment; and

(f) Using and making repairs, alterations, or improvements to the property; and

(6) Change the form of title of an interest in tangible personal property.

NEW SECTION. **Sec. 206.** STOCKS AND BONDS. Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to stocks and bonds authorizes the agent to:

(1) Buy, sell, and exchange stocks and bonds;

(2) Establish, continue, modify, or terminate an account with respect to stocks and bonds;

(3) Pledge stocks and bonds as security to borrow, pay, renew, or extend the time of payment of a debt of the principal;

(4) Receive certificates and other evidences of ownership with respect to stocks and bonds; and

(5) Exercise voting rights with respect to stocks and bonds in person or by proxy, enter into voting trusts, and consent to limitations on the right to vote.

NEW SECTION. **Sec. 207.** COMMODITIES AND OPTIONS. Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to commodities and options authorizes the agent to:

(1) Buy, sell, exchange, assign, settle, and exercise commodity futures contracts and call or put options on stocks or stock indexes traded on a regulated option exchange; and

(2) Establish, continue, modify, and terminate option accounts.

NEW SECTION. **Sec. 208.** BANKS AND OTHER FINANCIAL INSTITUTIONS. Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to banks and other financial institutions authorizes the agent to:

(1) Continue, modify, and terminate an account or other banking arrangement made by or on behalf of the principal;

(2) Establish, modify, and terminate an account or other banking arrangement with a bank, trust company, savings and loan association, credit union, thrift company, brokerage firm, or other financial institution selected by the agent;

(3) Contract for services available from a financial institution, including renting a safe deposit box or space in a vault;

(4) Withdraw, by check, order, electronic funds transfer, or otherwise, money or property of the principal deposited with or left in the custody of a financial institution;

(5) Receive statements of account, vouchers, notices, and similar documents from a financial institution and act with respect to them;

(6) Enter a safe deposit box or vault and withdraw or add to the contents;

(7) Borrow money and pledge as security personal property of the

principal necessary to borrow money or pay, renew, or extend the time of payment of a debt of the principal or a debt guaranteed by the principal;

(8) Make, assign, draw, endorse, discount, guarantee, and negotiate promissory notes, checks, drafts, and other negotiable or nonnegotiable paper of the principal or payable to the principal or the principal's order, transfer money, receive the cash or other proceeds of those transactions, and accept a draft drawn by a person upon the principal and pay it when due;

(9) Receive for the principal and act upon a sight draft, warehouse receipt, or other document of title whether tangible or electronic, or other negotiable or nonnegotiable instrument;

(10) Apply for, receive, and use letters of credit, credit and debit cards, electronic transaction authorizations, and traveler's checks from a financial institution and give an indemnity or other agreement in connection with letters of credit; and

(11) Consent to an extension of the time of payment with respect to commercial paper or a financial transaction with a financial institution.

NEW SECTION. **Sec. 209.** OPERATION OF ENTITY OR BUSINESS. Subject to the terms of a document or an agreement governing an entity or an entity ownership interest, and unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to operation of an entity or business authorizes the agent to:

(1) Operate, buy, sell, enlarge, reduce, or terminate an ownership interest;

(2) Perform a duty or discharge a liability and exercise in person or by proxy a right, power, privilege, or option that the principal has, may have, or claims to have;

(3) Enforce the terms of an ownership agreement;

(4) Initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to litigation to which the principal is a party because of an ownership interest;

(5) Exercise in person or by proxy, or enforce by litigation or

otherwise, a right, power, privilege, or option the principal has or claims to have as the holder of stocks and bonds;

(6) Initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to litigation to which the principal is a party concerning stocks and bonds;

(7) With respect to an entity or business owned solely by the principal:

(a) Continue, modify, renegotiate, extend, and terminate a contract made by or on behalf of the principal with respect to the entity or business before execution of the power of attorney;

(b) Determine:

(i) The location of its operation;

(ii) The nature and extent of its business;

(iii) The methods of manufacturing, selling, merchandising, financing, accounting, and advertising employed in its operation;

(iv) The amount and types of insurance carried; and

(v) The mode of engaging, compensating, and dealing with its employees and accountants, attorneys, or other advisors;

(c) Change the name or form of organization under which the entity or business is operated and enter into an ownership agreement with other persons to take over all or part of the operation of the entity or business; and

(d) Demand and receive money due or claimed by the principal or on the principal's behalf in the operation of the entity or business and control and disburse the money in the operation of the entity or business;

(8) Put additional capital into an entity or business in which the principal has an interest;

(9) Join in a plan of reorganization, consolidation, conversion, domestication, or merger of the entity or business;

(10) Sell or liquidate all or part of an entity or business;

(11) Establish the value of an entity or business under a buy-out agreement to which the principal is a party;

(12) Prepare, sign, file, and deliver reports, compilations of information, returns, or other papers with respect to an entity or business and make related payments; and

(13) Pay, compromise, or contest taxes, assessments, fines, or penalties and perform any other act to protect the principal from illegal or unnecessary taxation, assessments, fines, or penalties, with respect to an entity or business, including attempts to recover, in any manner permitted by law, money paid before or after the execution of the power of attorney.

NEW SECTION. **Sec. 210.** INSURANCE AND ANNUITIES. Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to insurance and annuities authorizes the agent to:

(1) Continue, pay the premium or make a contribution on, modify, exchange, rescind, release, or terminate a contract procured by or on behalf of the principal that insures or provides an annuity to either the principal or another person, whether or not the principal is a beneficiary under the contract;

(2) Procure new, different, and additional contracts of insurance and annuities for the principal and the principal's spouse, children, and other dependents, and select the amount, type of insurance or annuity, and mode of payment;

(3) Pay the premium or make a contribution on, modify, exchange, rescind, release, or terminate a contract of insurance or annuity procured by the agent;

(4) Apply for and receive a loan secured by a contract of insurance or annuity;

(5) Surrender and receive the cash surrender value on a contract of insurance or annuity;

(6) Exercise an election;

(7) Exercise investment powers available under a contract of insurance or annuity;

(8) Change the manner of paying premiums on a contract of insurance or annuity;

(9) Change or convert the type of insurance or annuity with respect to which the principal has or claims to have authority described in this section;

(10) Apply for and procure a benefit or assistance under a statute or regulation to guarantee or pay premiums of a contract of insurance on the life of the principal;

(11) Collect, sell, assign, hypothecate, borrow against, or pledge the interest of the principal in a contract of insurance or annuity;

(12) Select the form and timing of the payment of proceeds from a contract of insurance or annuity; and

(13) Pay, from proceeds or otherwise, compromise or contest, and apply for refunds in connection with, a tax or assessment levied by a taxing authority with respect to a contract of insurance or annuity or its proceeds or liability accruing by reason of the tax or assessment.

NEW SECTION. **Sec. 211.** ESTATES, TRUSTS, AND OTHER BENEFICIAL INTERESTS. (1) For the purposes of this section, "estates, trusts, and other beneficial interests" means a trust, probate estate, guardianship, conservatorship, escrow, or custodianship or a fund from which the principal is, may become, or claims to be, entitled to a share or payment.

(2) Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to estates, trusts, and other beneficial interests authorizes the agent to:

(a) Accept, receive, receipt for, sell, assign, pledge, or exchange a share in or payment from the fund;

(b) Demand or obtain money or another thing of value to which the principal is, may become, or claims to be, entitled by reason of the fund, by litigation or otherwise;

(c) Exercise for the benefit of the principal a presently exercisable general power of appointment held by the principal;

(d) Initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to litigation to ascertain the meaning, validity, or effect of a deed, will, declaration of trust, or other instrument or transaction affecting the interest of the principal;

(e) Initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to litigation to remove, substitute, or surcharge a fiduciary;

(f) Conserve, invest, disburse, or use anything received for an authorized purpose;

(g) Transfer an interest of the principal in real property, stocks and bonds, accounts with financial institutions or securities

intermediaries, insurance, annuities, and other property to the trustee of a revocable trust created by the principal as settlor; and

(h) Reject, renounce, disclaim, release, or consent to a reduction in or modification of a share in or payment from the fund.

NEW SECTION. **Sec. 212.** CLAIMS AND LITIGATION. Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to claims and litigation authorizes the agent to:

(1) Assert and maintain before a court or administrative agency a claim, claim for relief, cause of action, counterclaim, offset, recoupment, or defense, including an action to recover property or other thing of value, recover damages sustained by the principal, eliminate or modify tax liability, or seek an injunction, specific performance, or other relief;

(2) Bring an action to determine adverse claims or intervene or otherwise participate in litigation;

(3) Seek an attachment, garnishment, order of arrest, or other preliminary, provisional, or intermediate relief and use an available procedure to effect or satisfy a judgment, order, or decree;

(4) Make or accept a tender, offer of judgment, or admission of facts, submit a controversy on an agreed statement of facts, consent to examination, and bind the principal in litigation;

(5) Submit to alternative dispute resolution, settle, and propose or accept a compromise;

(6) Waive the issuance and service of process upon the principal, accept service of process, appear for the principal, designate persons upon which process directed to the principal may be served, execute and file or deliver stipulations on the principal's behalf, verify pleadings, seek appellate review, procure and give surety and indemnity bonds, contract and pay for the preparation and printing of records and briefs, receive, execute, and file or deliver a consent, waiver, release, confession of judgment, satisfaction of judgment, notice, agreement, or other instrument in connection with the prosecution, settlement, or defense of a claim or litigation;

(7) Act for the principal with respect to bankruptcy or insolvency, whether voluntary or involuntary, concerning the principal or some

other person, or with respect to a reorganization, receivership, or application for the appointment of a receiver or trustee which affects an interest of the principal in property or other thing of value;

(8) Pay a judgment, award, or order against the principal or a settlement made in connection with a claim or litigation; and

(9) Receive money or other thing of value paid in settlement of or as proceeds of a claim or litigation.

NEW SECTION. **Sec. 213.** PERSONAL AND FAMILY MAINTENANCE. (1) Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to personal and family maintenance authorizes the agent to:

(a) Perform the acts necessary to maintain the customary standard of living of the principal, the principal's spouse, and the following individuals, whether living when the power of attorney is executed or later born:

(i) The principal's children;

(ii) Other individuals legally entitled to be supported by the principal; and

(iii) The individuals whom the principal has customarily supported or indicated the intent to support;

(b) Make periodic payments of child support and other family maintenance required by a court or governmental agency or an agreement to which the principal is a party;

(c) Provide living quarters for the individuals described in (a) of this subsection by:

(i) Purchase, lease, or other contract; or

(ii) Paying the operating costs, including interest, amortization payments, repairs, improvements, and taxes, for premises owned by the principal or occupied by those individuals;

(d) Provide normal domestic help, usual vacations and travel expenses, and funds for shelter, clothing, food, appropriate education, including postsecondary and vocational education, and other current living costs for the individuals described in (a) of this subsection;

(e) Pay expenses for necessary health care and custodial care on behalf of the individuals described in (a) of this subsection;

(f) Act as the principal's personal representative pursuant to the health insurance portability and accountability act of 1996 (P.L. 104-

191; 110 Stat. 2033), 42 U.S.C. Sec. 1320d, and applicable regulations, in making decisions related to the past, present, or future payment for the provision of health care consented to by the principal or anyone authorized under the law of this state to consent to health care on behalf of the principal;

(g) Continue any provision made by the principal for automobiles or other means of transportation, including registering, licensing, insuring, and replacing them, for the individuals described in (a) of this subsection;

(h) Maintain credit and debit accounts for the convenience of the individuals described in (a) of this subsection and open new accounts; and

(i) Continue payments incidental to the membership or affiliation of the principal in a religious institution, club, society, order, or other organization or to continue contributions to those organizations.

(2) Authority with respect to personal and family maintenance is neither dependent upon, nor limited by, authority that an agent may or may not have with respect to gifts under this chapter.

NEW SECTION. **Sec. 214.** BENEFITS FROM GOVERNMENTAL PROGRAMS OR CIVIL OR MILITARY SERVICE. (1) For the purposes of this section, "benefits from governmental programs or civil or military service" means any benefit, program, or assistance provided under a statute or regulation including social security, medicare, and medicaid.

(2) Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to benefits from governmental programs or civil or military service authorizes the agent to:

(a) Execute vouchers in the name of the principal for allowances and reimbursements payable by the United States or a foreign government or by a state or subdivision of a state to the principal, including allowances and reimbursements for transportation of the individuals described in section 213(1)(a) of this act, and for shipment of their household effects;

(b) Take possession and order the removal and shipment of property of the principal from a post, warehouse, depot, dock, or other place of storage or safekeeping, either governmental or private, and execute and

deliver a release, voucher, receipt, bill of lading, shipping ticket, certificate, or other instrument for that purpose;

(c) Enroll in, apply for, select, reject, change, amend, or discontinue, on the principal's behalf, a benefit or program;

(d) Prepare, file, and maintain a claim of the principal for a benefit or assistance, financial or otherwise, to which the principal may be entitled under a statute or regulation;

(e) Initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to litigation concerning any benefit or assistance the principal may be entitled to receive under a statute or regulation; and

(f) Receive the financial proceeds of a claim described in (d) of this subsection and conserve, invest, disburse, or use for a lawful purpose anything so received.

NEW SECTION. **Sec. 215.** RETIREMENT PLANS. (1) For the purposes of this section, "retirement plan" means a plan or account created by an employer, the principal, or another individual to provide retirement benefits or deferred compensation of which the principal is a participant, beneficiary, or owner, including a plan or account under the following sections of the internal revenue code:

(a) An individual retirement account under section 408 of the internal revenue code (26 U.S.C. Sec. 408);

(b) A Roth individual retirement account under section 408A of the internal revenue code (26 U.S.C. Sec. 408A);

(c) A deemed individual retirement account under section 408(q) of the internal revenue code (26 U.S.C. Sec. 408(q));

(d) An annuity or mutual fund custodial account under section 403(b) of the internal revenue code (26 U.S.C. Sec. 403(b));

(e) A pension, profit-sharing, stock bonus, or other retirement plan qualified under section 401(a) of the internal revenue code (26 U.S.C. Sec. 401(a));

(f) A plan under section 457(b) of the internal revenue code (26 U.S.C. Sec. 457(b)); and

(g) A nonqualified deferred compensation plan under section 409A of the internal revenue code (26 U.S.C. Sec. 409A).

(2) Unless the power of attorney otherwise provides, language in a

power of attorney granting general authority with respect to retirement plans authorizes the agent to:

(a) Select the form and timing of payments under a retirement plan and withdraw benefits from a plan;

(b) Make a rollover, including a direct trustee-to-trustee rollover, of benefits from one retirement plan to another;

(c) Establish a retirement plan in the principal's name;

(d) Make contributions to a retirement plan;

(e) Exercise investment powers available under a retirement plan; and

(f) Borrow from, sell assets to, or purchase assets from a retirement plan.

NEW SECTION. **Sec. 216.** TAXES. Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to taxes authorizes the agent to:

(1) Prepare, sign, and file federal, state, local, and foreign income, gift, payroll, property, federal insurance contributions act, and other tax returns, claims for refunds, requests for extension of time, petitions regarding tax matters, and any other tax-related documents, including receipts, offers, waivers, consents, including consents and agreements under section 2032A of the internal revenue code (26 U.S.C. Sec. 2032A), closing agreements, and any power of attorney required by the internal revenue service or other taxing authority with respect to a tax year upon which the statute of limitations has not run and the following twenty-five tax years;

(2) Pay taxes due, collect refunds, post bonds, receive confidential information, and contest deficiencies determined by the internal revenue service or other taxing authority;

(3) Exercise any election available to the principal under federal, state, local, or foreign tax law; and

(4) Act for the principal in all tax matters for all periods before the internal revenue service, or other taxing authority.

NEW SECTION. **Sec. 217.** GIFTS. (1) For the purposes of this section, a gift "for the benefit of" a person includes a gift to a trust, an account under the uniform transfers to minors act, and a

tuition savings account or prepaid tuition plan as defined under section 529 of the internal revenue code (26 U.S.C. Sec. 529).

(2) Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to gifts authorizes the agent only to:

(a) Make outright to, or for the benefit of, a person, a gift of any of the principal's property, including by the exercise of a presently exercisable general power of appointment held by the principal, in an amount per donee not to exceed the annual dollar limits of the federal gift tax exclusion under section 2503(b) of the internal revenue code (26 U.S.C. Sec. 2503(b)), without regard to whether the federal gift tax exclusion applies to the gift, or if the principal's spouse agrees to consent to a split gift pursuant to section 2513 of the internal revenue code (26 U.S.C. Sec. 2513), in an amount per donee not to exceed twice the annual federal gift tax exclusion limit; and

(b) Consent, pursuant to section 2513 of the internal revenue code (26 U.S.C. Sec. 2513), to the splitting of a gift made by the principal's spouse in an amount per donee not to exceed the aggregate annual gift tax exclusions for both spouses.

(3) An agent may make a gift of the principal's property only as the agent determines is consistent with the principal's objectives if actually known by the agent and, if unknown, as the agent determines is consistent with the principal's best interest based on all relevant factors, including:

(a) The value and nature of the principal's property;

(b) The principal's foreseeable obligations and need for maintenance;

(c) Minimization of taxes, including income, estate, inheritance, generation-skipping transfer, and gift taxes;

(d) Eligibility for a benefit, a program, or assistance under a statute or regulation; and

(e) The principal's personal history of making or joining in making gifts.

PART 3
STATUTORY FORMS

NEW SECTION. **Sec. 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 this chapter:

WASHINGTON

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 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, chapter 11.-- RCW (sections 101 through 302 and 501 through 505 of this 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 authority 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 coagent in the Special Instructions. Coagents 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 ..... name the following person as my agent:

(Name of Principal)

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 second 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, chapter 11.-- RCW (sections 101 through 302 and 501 through 505 of this act): (INITIAL each subject you want to include in the agent's general authority. If you wish to grant general authority over all of 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 limitations of section 217 of this 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 survivor annuity, including a survivor benefit under a retirement plan

( ) Exercise fiduciary powers that the principal has authority to delegate

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 (OPTIONAL)

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 GUARDIAN (OPTIONAL)

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

Name of Nominee for guardian 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 document was acknowledged before me on . . . . . ,

(Date)

by . . . . . .

(Name of Principal)

. . . . . (Seal, if any)

Signature of Notary

My commission expires: . . . . . .

This document prepared by:

. . . . . .

. . . . . .

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 identity 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:

(Principal's Name) by (Your Signature) As Agent

. . . . . .

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 transactions 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 is 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 terminates 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 state 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, chapter 11.-- RCW (sections 101 through 302 and 501 through 505 of this act). If you violate the Uniform Power of Attorney Act, chapter 11.-- RCW (sections 101 through 302 and 501 through 505 of this 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.

NEW SECTION. **Sec. 302.** AGENT'S CERTIFICATION. The following optional form may be used by an agent to certify facts concerning a power of attorney:

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 . . . .

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) . . . . . .

. . . . . .

. . . . . .

. . . . . .

(Insert other relevant statements)

SIGNATURE AND ACKNOWLEDGMENT

. . . .

Agent's Signature Date

. . . . . .

Agent's Name Printed

. . . . . .

. . . . . .

Agent's Address

. . . . . .

Agent's Telephone Number

This document was acknowledged before me on . . . . . ,

(Date)

by . . . .

(Name of Agent)

. . . . . . (Seal, if any)

Signature of Notary

My commission expires: . . . . . .

This document prepared by:

. . . . . .

PART 4
CONFORMING AMENDMENTS

Sec. 401. RCW 11.86.021 and 1989 c 34 s 2 are each amended to read as follows:

(1) A beneficiary may disclaim an interest in whole or in part, or with reference to specific parts, shares or assets, in the manner provided in RCW 11.86.031.

(2) Likewise, a beneficiary may so disclaim through an agent or attorney so authorized by written instrument.

(3) A personal representative, guardian, attorney-in-fact if authorized under a durable power of attorney under chapter ((~~11.94 RCW~~)) 11.-- RCW (sections 101 through 302 and 501 through 505 of this

act), or other legal representative of the estate of a minor, incompetent, or deceased beneficiary, may so disclaim on behalf of the beneficiary, with or without court order, if:

(a) The legal representative deems the disclaimer to be in the best interests of those interested in the estate of the beneficiary and of those who take the disclaimed interest because of the disclaimer, and not detrimental to the best interests of the beneficiary; and

(b) In the case of a guardian, no order has been issued under RCW 11.92.140 determining that the disclaimer is not in the best interests of the beneficiary.

Sec. 402. RCW 11.88.010 and 2005 c 236 s 3 are each amended to read as follows:

(1) The superior court of each county shall have power to appoint guardians for the persons and/or estates of incapacitated persons, and guardians for the estates of nonresidents of the state who have property in the county needing care and attention.

(a) For purposes of this chapter, a person may be deemed incapacitated as to person when the superior court determines the individual has a significant risk of personal harm based upon a demonstrated inability to adequately provide for nutrition, health, housing, or physical safety.

(b) For purposes of this chapter, a person may be deemed incapacitated as to the person's estate when the superior court determines the individual is ((~~at significant risk of financial harm based upon a demonstrated inability to adequately manage property or financial affairs~~)) unable to manage property or business affairs because the individual:

(i) Has an impairment in the ability to receive and evaluate information or make or communicate decisions even with the use of technological assistance; or

(ii) Is missing; detained, including incarcerated in a penal system; or outside the United States and unable to return.

(c) A determination of incapacity is a legal not a medical decision, based upon a demonstration of management insufficiencies over time in the area of person or estate. Age, eccentricity, poverty, or medical diagnosis alone shall not be sufficient to justify a finding of incapacity.

(d) A person may also be determined incapacitated if he or she is under the age of majority as defined in RCW 26.28.010.

(e) For purposes of giving informed consent for health care pursuant to RCW 7.70.050 and 7.70.065, an "incompetent" person is any person who is (i) incompetent by reason of mental illness, developmental disability, senility, habitual drunkenness, excessive use of drugs, or other mental incapacity, of either managing his or her property or caring for himself or herself, or both, or (ii) incapacitated as defined in (a), (b), or (d) of this subsection.

(f) For purposes of the terms "incompetent," "disabled," or "not legally competent," as those terms are used in the Revised Code of Washington to apply to persons incapacitated under this chapter, those terms shall be interpreted to mean "incapacitated" persons for purposes of this chapter.

(2) The superior court for each county shall have power to appoint limited guardians for the persons and estates, or either thereof, of incapacitated persons, who by reason of their incapacity have need for protection and assistance, but who are capable of managing some of their personal and financial affairs. After considering all evidence presented as a result of such investigation, the court shall impose, by order, only such specific limitations and restrictions on an incapacitated person to be placed under a limited guardianship as the court finds necessary for such person's protection and assistance. A person shall not be presumed to be incapacitated nor shall a person lose any legal rights or suffer any legal disabilities as the result of being placed under a limited guardianship, except as to those rights and disabilities specifically set forth in the court order establishing such a limited guardianship. In addition, the court order shall state the period of time for which it shall be applicable.

(3) Venue for petitions for guardianship or limited guardianship shall lie in the county wherein the alleged incapacitated person is domiciled, or if such person resides in a facility supported in whole or in part by local, state, or federal funding sources, in either the county where the facility is located, the county of domicile prior to residence in the supported facility, or the county where a parent or spouse of the alleged incapacitated person is domiciled.

If the alleged incapacitated person's residency has changed within one year of the filing of the petition, any interested person may move

for a change of venue for any proceedings seeking the appointment of a guardian or a limited guardian under this chapter to the county of the alleged incapacitated person's last place of residence of one year or more. The motion shall be granted when it appears to the court that such venue would be in the best interests of the alleged incapacitated person and would promote more complete consideration of all relevant matters.

(4) Under ((~~RCW 11.94.010~~)) section 107 of this act, a principal may nominate, by a durable power of attorney, the guardian or limited guardian of his or her estate or person for consideration by the court if guardianship proceedings for the principal's person or estate are thereafter commenced. The court shall make its appointment in accordance with the principal's most recent nomination in a durable power of attorney except for good cause or disqualification.

(5) Imposition of a guardianship for an incapacitated person shall not result in the loss of the right to vote unless the court determines that the person is incompetent for purposes of rationally exercising the franchise in that the individual lacks the capacity to understand the nature and effect of voting such that she or he cannot make an individual choice. The court order establishing guardianship shall specify whether or not the individual retains voting rights. When a court determines that the person is incompetent for the purpose of rationally exercising the right to vote, the court shall notify the appropriate county auditor.

Sec. 403. RCW 30.22.170 and 1981 c 192 s 17 are each amended to read as follows:

Any funds on deposit in an account may be paid by a financial institution to or upon the order of any agent of any depositor. The contract of deposit or other document creating such agency may provide, in accordance with chapter ((~~11.94 RCW~~)) 11.-- RCW (sections 101 through 302 and 501 through 505 of this act), that any such agent's powers to receive payments and make withdrawals from an account continues in spite of, or arises by virtue of, the incompetency of a depositor, in which event the agent's powers to make payments and withdrawals from an account on behalf of a depositor is not affected by the incompetency of a depositor. Except as provided in this section, the authority of an agent to receive payments or make withdrawals from

an account terminates with the death or incompetency of the agent's principal: PROVIDED, That a financial institution is not liable for any payment or withdrawal made to or by an agent for a deceased or incompetent depositor unless the financial institution making the payment or permitting the withdrawal had actual knowledge of the incompetency or death at the time payment was made.

Sec. 404. RCW 70.122.130 and 2006 c 108 s 2 are each amended to read as follows:

(1) The department of health shall establish and maintain a statewide health care declarations registry containing the health care declarations identified in subsection (2) of this section as submitted by residents of Washington. The department shall digitally reproduce and store health care declarations in the registry. The department may establish standards for individuals to submit digitally reproduced health care declarations directly to the registry, but is not required to review the health care declarations that it receives to ensure they comply with the particular statutory requirements applicable to the document. The department may contract with an organization that meets the standards identified in this section.

(2)(a) An individual may submit any of the following health care declarations to the department of health to be digitally reproduced and stored in the registry:

(i) A directive, as defined by this chapter;

(ii) A durable power of attorney for health care, as authorized in chapter ((~~11.94 RCW~~)) 11.-- RCW (sections 101 through 302 and 501 through 505 of this act);

(iii) A mental health advance directive, as defined by chapter 71.32 RCW; or

(iv) A form adopted pursuant to the department of health's authority in RCW 43.70.480.

(b) Failure to submit a health care declaration to the department of health does not affect the validity of the declaration.

(c) Failure to notify the department of health of a valid revocation of a health care declaration does not affect the validity of the revocation.

(d) The entry of a health care directive in the registry under this section does not:

(i) Affect the validity of the document;

(ii) Take the place of any requirements in law necessary to make the submitted document legal; or

(iii) Create a presumption regarding the validity of the document.

(3) The department of health shall prescribe a procedure for an individual to revoke a health care declaration contained in the registry.

(4) The registry must:

(a) Be maintained in a secure database that is accessible through a web site maintained by the department of health;

(b) Send annual electronic messages to individuals that have submitted health care declarations to request that they review the registry materials to ensure that it is current;

(c) Provide individuals who have submitted one or more health care declarations with access to their documents and the ability to revoke their documents at all times; and

(d) Provide the personal representatives of individuals who have submitted one or more health care declarations to the registry, attending physicians, advanced registered nurse practitioners, health care providers licensed by a disciplining authority identified in RCW 18.130.040 who is acting under the direction of a physician or an advanced registered nurse practitioner, and health care facilities, as defined in this chapter or in chapter 71.32 RCW, access to the registry at all times.

(5) In designing the registry and web site, the department of health shall ensure compliance with state and federal requirements related to patient confidentiality.

(6) The department shall provide information to health care providers and health care facilities on the registry web site regarding the different federal and Washington state requirements to ascertain and document whether a patient has an advance directive.

(7) The department of health may accept donations, grants, gifts, or other forms of voluntary contributions to support activities related to the creation and maintenance of the health care declarations registry and statewide public education campaigns related to the existence of the registry. All funds received shall be transferred to the health care declarations registry account, created in RCW 70.122.140.

(8) The department of health may adopt rules as necessary to implement chapter 108, Laws of 2006.

(9) By December 1, 2008, the department shall report to the house and senate committees on health care the following information:

(a) Number of participants in the registry;

(b) Number of health care declarations submitted by type of declaration as defined in this section;

(c) Number of health care declarations revoked and the method of revocation;

(d) Number of providers and facilities, by type, that have been provided access to the registry;

(e) Actual costs of operation of the registry;

(f) Donations received by the department for deposit into the health care declarations registry account, created in RCW 70.122.140 by type of donor.

Sec. 405. RCW 71.32.020 and 2003 c 283 s 2 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Adult" means any individual who has attained the age of majority or is an emancipated minor.

(2) "Agent" has the same meaning as an attorney-in-fact or agent as provided in chapter ((~~11.94 RCW~~)) 11.-- RCW (sections 101 through 302 and 501 through 505 of this act).

(3) "Capacity" means that an adult has not been found to be incapacitated pursuant to this chapter or RCW 11.88.010(1)(e).

(4) "Court" means a superior court under chapter 2.08 RCW.

(5) "Health care facility" means a hospital, as defined in RCW 70.41.020; an institution, as defined in RCW 71.12.455; a state hospital, as defined in RCW 72.23.010; a nursing home, as defined in RCW 18.51.010; or a clinic that is part of a community mental health service delivery system, as defined in RCW 71.24.025.

(6) "Health care provider" means an osteopathic physician or osteopathic physician's assistant licensed under chapter 18.57 or 18.57A RCW, a physician or physician's assistant licensed under chapter 18.71 or 18.71A RCW, or an advanced registered nurse practitioner licensed under RCW 18.79.050.

(7) "Incapacitated" means an adult who: (a) Is unable to understand the nature, character, and anticipated results of proposed treatment or alternatives; understand the recognized serious possible risks, complications, and anticipated benefits in treatments and alternatives, including nontreatment; or communicate his or her understanding or treatment decisions; or (b) has been found to be incompetent pursuant to RCW 11.88.010(1)(e).

(8) "Informed consent" means consent that is given after the person: (a) Is provided with a description of the nature, character, and anticipated results of proposed treatments and alternatives, and the recognized serious possible risks, complications, and anticipated benefits in the treatments and alternatives, including nontreatment, in language that the person can reasonably be expected to understand; or (b) elects not to be given the information included in (a) of this subsection.

(9) "Long-term care facility" has the same meaning as defined in RCW 43.190.020.

(10) "Mental disorder" means any organic, mental, or emotional impairment which has substantial adverse effects on an individual's cognitive or volitional functions.

(11) "Mental health advance directive" or "directive" means a written document in which the principal makes a declaration of instructions or preferences or appoints an agent to make decisions on behalf of the principal regarding the principal's mental health treatment, or both, and that is consistent with the provisions of this chapter.

(12) "Mental health professional" means a psychiatrist, psychologist, psychiatric nurse, or social worker, and such other mental health professionals as may be defined by rules adopted by the secretary pursuant to the provisions of chapter 71.05 RCW.

(13) "Principal" means an adult who has executed a mental health advance directive.

(14) "Professional person" means a mental health professional and shall also mean a physician, registered nurse, and such others as may be defined by rules adopted by the secretary pursuant to the provisions of chapter 71.05 RCW.

Sec. 406. RCW 71.32.050 and 2003 c 283 s 5 are each amended to read as follows:

(1) An adult with capacity may execute a mental health advance directive.

(2) A directive executed in accordance with this chapter is presumed to be valid. The inability to honor one or more provisions of a directive does not affect the validity of the remaining provisions.

(3) A directive may include any provision relating to mental health treatment or the care of the principal or the principal's personal affairs. Without limitation, a directive may include:

(a) The principal's preferences and instructions for mental health treatment;

(b) Consent to specific types of mental health treatment;

(c) Refusal to consent to specific types of mental health treatment;

(d) Consent to admission to and retention in a facility for mental health treatment for up to fourteen days;

(e) Descriptions of situations that may cause the principal to experience a mental health crisis;

(f) Suggested alternative responses that may supplement or be in lieu of direct mental health treatment, such as treatment approaches from other providers;

(g) Appointment of an agent pursuant to chapter ((~~11.94 RCW~~)) 11.-- RCW (sections 101 through 302 and 501 through 505 of this act) to make mental health treatment decisions on the principal's behalf, including authorizing the agent to provide consent on the principal's behalf to voluntary admission to inpatient mental health treatment; and

(h) The principal's nomination of a guardian or limited guardian as provided in ((~~RCW 11.94.010~~)) section 107 of this act for consideration by the court if guardianship proceedings are commenced.

(4) A directive may be combined with or be independent of a nomination of a guardian or other durable power of attorney under chapter ((~~11.94 RCW~~)) 11.-- RCW (sections 101 through 302 and 501 through 505 of this act), so long as the processes for each are executed in accordance with its own statutes.

Sec. 407. RCW 71.32.060 and 2003 c 283 s 6 are each amended to read as follows:

(1) A directive shall:

(a) Be in writing;

(b) Contain language that clearly indicates that the principal intends to create a directive;

(c) Be dated and signed by the principal or at the principal's direction in the principal's presence if the principal is unable to sign;

(d) Designate whether the principal wishes to be able to revoke the directive during any period of incapacity or wishes to be unable to revoke the directive during any period of incapacity; and

(e) Be witnessed in writing by at least two adults, each of whom shall declare that he or she personally knows the principal, was present when the principal dated and signed the directive, and that the principal did not appear to be incapacitated or acting under fraud, undue influence, or duress.

(2) A directive that includes the appointment of an agent under chapter ((~~11.94 RCW~~)) 11.-- RCW (sections 101 through 302 and 501 through 505 of this act) shall contain the words "This power of attorney shall not be affected by the incapacity of the principal," or "This power of attorney shall become effective upon the incapacity of the principal," or similar words showing the principal's intent that the authority conferred shall be exercisable notwithstanding the principal's incapacity.

(3) A directive is valid upon execution, but all or part of the directive may take effect at a later time as designated by the principal in the directive.

(4) A directive may:

(a) Be revoked, in whole or in part, pursuant to the provisions of RCW 71.32.080; or

(b) Expire under its own terms.

Sec. 408. RCW 71.32.100 and 2003 c 283 s 10 are each amended to read as follows:

(1) If a directive authorizes the appointment of an agent, the provisions of chapter ((~~11.94 RCW~~)) 11.-- RCW (sections 101 through 302 and 501 through 505 of this act) and RCW 7.70.065 shall apply unless otherwise stated in this chapter.

(2) The principal who appoints an agent must notify the agent in writing of the appointment.

(3) An agent must act in good faith.

(4) An agent may make decisions on behalf of the principal. Unless the principal has revoked the directive, the decisions must be consistent with the instructions and preferences the principal has expressed in the directive, or if not expressed, as otherwise known to the agent. If the principal's instructions or preferences are not known, the agent shall make a decision he or she determines is in the best interest of the principal.

(5) Except to the extent the right is limited by the appointment or any federal or state law, the agent has the same right as the principal to receive, review, and authorize the use and disclosure of the principal's health care information when the agent is acting on behalf of the principal and to the extent required for the agent to carry out his or her duties. This subsection shall be construed to be consistent with chapters 70.02, 70.24, 70.96A, 71.05, and 71.34 RCW, and with federal law regarding health care information.

(6) Unless otherwise provided in the appointment and agreed to in writing by the agent, the agent is not, as a result of acting in the capacity of agent, personally liable for the cost of treatment provided to the principal.

(7) An agent may resign or withdraw at any time by giving written notice to the principal. The agent must also give written notice to any health care provider, professional person, or health care facility providing treatment to the principal. The resignation or withdrawal is effective upon receipt unless otherwise specified in the resignation or withdrawal.

(8) If the directive gives the agent authority to act while the principal has capacity, the decisions of the principal supersede those of the agent at any time the principal has capacity.

(9) Unless otherwise provided in the durable power of attorney, the principal may revoke the agent's appointment as provided under other state law.

Sec. 409. RCW 71.32.180 and 2003 c 283 s 18 are each amended to read as follows:

(1) Where an incapacitated principal has executed more than one valid directive and has not revoked any of the directives:

(a) The directive most recently created shall be treated as the principal's mental health treatment preferences and instructions as to any inconsistent or conflicting provisions, unless provided otherwise in either document.

(b) Where a directive executed under this chapter is inconsistent with a directive executed under any other chapter, the most recently created directive controls as to the inconsistent provisions.

(2) Where an incapacitated principal has appointed more than one agent under chapter ((~~11.94 RCW~~)) 11.-- RCW (sections 101 through 302 and 501 through 505 of this act) with authority to make mental health treatment decisions, ((~~RCW 11.94.010~~)) that chapter controls.

(3) The treatment provider shall inquire of a principal whether the principal is subject to any court orders that would affect the implementation of his or her directive.

Sec. 410. RCW 71.32.200 and 2003 c 283 s 20 are each amended to read as follows:

Any person with reasonable cause to believe that a directive has been created or revoked under circumstances amounting to fraud, duress, or undue influence may petition the court for appointment of a guardian for the person or to review the actions of the agent or person alleged to be involved in improper conduct under section 115 of this act or RCW ((~~11.94.090 or~~)) 74.34.110.

Sec. 411. RCW 71.32.260 and 2003 c 283 s 26 are each amended to read as follows:

The directive shall be in substantially the following form:

Mental Health Advance Directive

NOTICE TO PERSONS

CREATING A MENTAL HEALTH ADVANCE DIRECTIVE

This is an important legal document. It creates an advance directive for mental health treatment. Before signing this document you should know these important facts:

(1) This document is called an advance directive and allows you to make decisions in advance about your mental health treatment, including medications, short-term admission to inpatient treatment and electroconvulsive therapy.

YOU DO NOT HAVE TO FILL OUT OR SIGN THIS FORM.

IF YOU DO NOT SIGN THIS FORM, IT WILL NOT TAKE EFFECT.

If you choose to complete and sign this document, you may still decide to leave some items blank.

(2) You have the right to appoint a person as your agent to make treatment decisions for you. You must notify your agent that you have appointed him or her as an agent. The person you appoint has a duty to act consistently with your wishes made known by you. If your agent does not know what your wishes are, he or she has a duty to act in your best interest. Your agent has the right to withdraw from the appointment at any time.

(3) The instructions you include with this advance directive and the authority you give your agent to act will only become effective under the conditions you select in this document. You may choose to limit this directive and your agent's authority to times when you are incapacitated or to times when you are exhibiting symptoms or behavior that you specify. You may also make this directive effective immediately. No matter when you choose to make this directive effective, your treatment providers must still seek your informed consent at all times that you have capacity to give informed consent.

(4) You have the right to revoke this document in writing at any time you have capacity.

YOU MAY NOT REVOKE THIS DIRECTIVE WHEN YOU HAVE BEEN FOUND TO BE INCAPACITATED UNLESS YOU HAVE SPECIFICALLY STATED IN THIS DIRECTIVE THAT YOU WANT IT TO BE REVOCABLE WHEN YOU ARE INCAPACITATED.

(5) This directive will stay in effect until you revoke it unless you specify an expiration date. If you specify an expiration date and you are incapacitated at the time it expires, it will remain in effect until you have capacity to make treatment decisions again unless you chose to be able to revoke it while you are incapacitated and you revoke the directive.

(6) You cannot use your advance directive to consent to civil commitment. The procedures that apply to your advance directive are different than those provided for in the Involuntary Treatment Act. Involuntary treatment is a different process.

(7) If there is anything in this directive that you do not understand, you should ask a lawyer to explain it to you.

(8) You should be aware that there are some circumstances where your provider may not have to follow your directive.

(9) You should discuss any treatment decisions in your directive with your provider.

(10) You may ask the court to rule on the validity of your directive.

PART I.

STATEMENT OF INTENT TO CREATE A MENTAL HEALTH ADVANCE DIRECTIVE

I, ... being a person with capacity, willfully and voluntarily execute this mental health advance directive so that my choices regarding my mental health care will be carried out in circumstances when I am unable to express my instructions and preferences regarding my mental health care. If a guardian is appointed by a court to make mental health decisions for me, I intend this document to take precedence over all other means of ascertaining my intent.

The fact that I may have left blanks in this directive does not affect its validity in any way. I intend that all completed sections be followed. If I have not expressed a choice, my agent should make the decision that he or she determines is in my best interest. I intend this directive to take precedence over any other directives I have previously executed, to the extent that they are inconsistent with this document, or unless I expressly state otherwise in either document.

I understand that I may revoke this directive in whole or in part if I am a person with capacity. I understand that I cannot revoke this directive if a court, two health care providers, or one mental health professional and one health care provider find that I am an incapacitated person, unless, when I executed this directive, I chose to be able to revoke this directive while incapacitated.

I understand that, except as otherwise provided in law, revocation must be in writing. I understand that nothing in this directive, or in my refusal of treatment to which I consent in this directive, authorizes any health care provider, professional person, health care facility, or agent appointed in this directive to use or threaten to use abuse, neglect, financial exploitation, or abandonment to carry out my directive.

I understand that there are some circumstances where my provider may not have to follow my directive.

PART II.

WHEN THIS DIRECTIVE IS EFFECTIVE

YOU MUST COMPLETE THIS PART FOR YOUR DIRECTIVE TO BE VALID.

I intend that this directive become effective (*YOU MUST CHOOSE ONLY ONE*):

. . . . . Immediately upon my signing of this directive.

. . . . . If I become incapacitated.

. . . . . When the following circumstances, symptoms, or behaviors occur: . . . . . .

. . . . . .

. . . . . .

PART III.

DURATION OF THIS DIRECTIVE

YOU MUST COMPLETE THIS PART FOR YOUR DIRECTIVE TO BE VALID.

I want this directive to (*YOU MUST CHOOSE ONLY ONE*):

. . . . . Remain valid and in effect for an indefinite period of time.

. . . . . Automatically expire . . . . . years from the date it was created.

PART IV.

WHEN I MAY REVOKE THIS DIRECTIVE

YOU MUST COMPLETE THIS PART FOR THIS DIRECTIVE TO BE VALID.

I intend that I be able to revoke this directive (*YOU MUST CHOOSE ONLY ONE*):

. . . . . Only when I have capacity.

I understand that choosing this option means I may only revoke this directive if I have capacity. I further understand that if I choose this option and become incapacitated while this directive is in effect, I may receive treatment that I specify in this directive, even if I object at the time.

. . . . . Even if I am incapacitated.

I understand that choosing this option means that I may revoke this directive even if I am incapacitated. I further understand that if I choose this option and revoke this directive while I am incapacitated I may not receive treatment that I specify in this directive, even if I want the treatment.

PART V.

PREFERENCES AND INSTRUCTIONS ABOUT TREATMENT, FACILITIES, AND PHYSICIANS

A. Preferences and Instructions About Physician(s) to be Involved in My Treatment

I would like the physician(s) named below to be involved in my treatment decisions:

Dr. . . . . Contact information: . . . . . .

Dr. . . . . Contact information: . . . . . .

I do not wish to be treated by Dr. . . . . .

B. Preferences and Instructions About Other Providers

I am receiving other treatment or care from providers who I feel have an impact on my mental health care. I would like the following treatment provider(s) to be contacted when this directive is effective:

Name . . . . . Profession . . . . . Contact information . . . . . .

Name . . . . . Profession . . . . . Contact information . . . . . .

C. Preferences and Instructions About Medications for Psychiatric Treatment (*initial and complete all that apply*)

. . . . . I consent, and authorize my agent (if appointed) to consent, to the following medications: . . . . . .

. . . . . I do not consent, and I do not authorize my agent (if appointed) to consent, to the administration of the following medications: . . . . . .

. . . . . I am willing to take the medications excluded above if my only reason for excluding them is the side effects which include . . . . . .

and these side effects can be eliminated by dosage adjustment or other means

. . . . . I am willing to try any other medication the hospital doctor recommends

. . . . . I am willing to try any other medications my outpatient doctor recommends

. . . . . I do not want to try any other medications.

Medication Allergies

I have allergies to, or severe side effects from, the following: . . . . . .

. . . . . .

Other Medication Preferences or Instructions

. . . . . I have the following other preferences or instructions about medications . . . . . .

. . . . . .

D. Preferences and Instructions About Hospitalization and Alternatives

(*initial all that apply and, if desired, rank "1" for first choice, "2" for second choice, and so on*)

. . . . . In the event my psychiatric condition is serious enough to require 24-hour care and I have no physical conditions that require immediate access to emergency medical care, I prefer to receive this care in programs/facilities designed as alternatives to psychiatric hospitalizations.

. . . . . I would also like the interventions below to be tried before hospitalization is considered:

. . . . . Calling someone or having someone call me when needed.

Name: . . . . . Telephone: . . . . . .

. . . . . Staying overnight with someone

Name: . . . . . Telephone: . . . . . .

. . . . . Having a mental health service provider come to see me

. . . . . Going to a crisis triage center or emergency room

. . . . . Staying overnight at a crisis respite (temporary) bed

. . . . . Seeing a service provider for help with psychiatric medications

. . . . . Other, specify: . . . . . .

Authority to Consent to Inpatient Treatment

I consent, and authorize my agent (if appointed) to consent, to voluntary admission to inpatient mental health treatment for . . . . . days (*not to exceed 14 days*)

(Sign one):

. . . . . If deemed appropriate by my agent (if appointed) and treating physician

. . . . . .

(Signature)

or

. . . . . Under the following circumstances (specify symptoms, behaviors, or circumstances that indicate the need for hospitalization) . . . . . .

. . . . . .

(Signature)

. . . . . I do **not** consent, or authorize my agent (if appointed) to consent, to inpatient treatment

. . . . . .

(Signature)

Hospital Preferences and Instructions

If hospitalization is required, I prefer the following hospitals: . . . . . .

I do not consent to be admitted to the following hospitals: . . . . . .

E. Preferences and Instructions About Preemergency

I would like the interventions below to be tried before use of seclusion or restraint is considered

(*initial all that apply*):

. . . . . "Talk me down" one-on-one

. . . . . More medication

. . . . . Time out/privacy

. . . . . Show of authority/force

. . . . . Shift my attention to something else

. . . . . Set firm limits on my behavior

. . . . . Help me to discuss/vent feelings

. . . . . Decrease stimulation

. . . . . Offer to have neutral person settle dispute

. . . . . Other, specify . . . . . .

F. Preferences and Instructions About Seclusion, Restraint, and Emergency Medications

If it is determined that I am engaging in behavior that requires seclusion, physical restraint, and/or emergency use of medication, I prefer these interventions in the order I have chosen (*choose "1" for first choice, "2" for second choice, and so on*):

. . . . . Seclusion

. . . . . Seclusion and physical restraint (combined)

. . . . . Medication by injection

. . . . . Medication in pill or liquid form

In the event that my attending physician decides to use medication in response to an emergency situation after due consideration of my preferences and instructions for emergency treatments stated above, I expect the choice of medication to reflect any preferences and instructions I have expressed in Part III C of this form. The preferences and instructions I express in this section regarding medication in emergency situations do not constitute consent to use of the medication for nonemergency treatment.

G. Preferences and Instructions About Electroconvulsive Therapy

(ECT or Shock Therapy)

My wishes regarding electroconvulsive therapy are (*sign one*):

. . . . . I do not consent, nor authorize my agent (if appointed) to consent, to the administration of electroconvulsive therapy

. . . . . .

(Signature)

. . . . . I consent, and authorize my agent (if appointed) to consent, to the administration of electroconvulsive therapy

. . . . . .

(Signature)

. . . . . I consent, and authorize my agent (if appointed) to consent, to the administration of electroconvulsive therapy, but only under the following conditions: . . . . . .

. . . . . .

. . . . . .

(Signature)

H. Preferences and Instructions About Who is Permitted to Visit

If I have been admitted to a mental health treatment facility, the following people are not permitted to visit me there:

Name: . . . . . .

Name: . . . . . .

Name: . . . . . .

I understand that persons not listed above may be permitted to visit me.

I. Additional Instructions About My Mental Health Care

Other instructions about my mental health care: . . . . . .

. . . . . .

In case of emergency, please contact:

Name: . . . . . Address: . . . . . .

Work telephone: . . . . . Home telephone: . . . . . .

Physician: . . . . . Address: . . . . . .

Telephone: . . . . . .

The following may help me to avoid a hospitalization: . . . . . .

. . . . . .

I generally react to being hospitalized as follows: . . . . . .

. . . . . .

Staff of the hospital or crisis unit can help me by doing the following: . . . . . .

. . . . . .

. . . . . .

J. Refusal of Treatment

I do not consent to any mental health treatment.

. . . . . .

(Signature)

PART VI.

DURABLE POWER OF ATTORNEY (APPOINTMENT OF MY AGENT)

(*Fill out this part only if you wish to appoint an agent or nominate a guardian.*)

I authorize an agent to make mental health treatment decisions on my behalf. The authority granted to my agent includes the right to consent, refuse consent, or withdraw consent to any mental health care, treatment, service, or procedure, consistent with any instructions and/or limitations I have set forth in this directive. I intend that those decisions should be made in accordance with my expressed wishes as set forth in this document. If I have not expressed a choice in this document **and my agent does not otherwise know my wishes**, I authorize my agent to make the decision that my agent determines is in my best interest. This agency shall not be affected by my incapacity. Unless I state otherwise in this durable power of attorney, I may revoke it unless prohibited by other state law.

A. Designation of an Agent

I appoint the following person as my agent to make mental health treatment decisions for me as authorized in this document and request that this person be notified immediately when this directive becomes effective:

Name: . . . . . Address: . . . . . .

Work telephone: . . . . . Home telephone: . . . . . .

Relationship: . . . . . .

B. Designation of Alternate Agent

If the person named above is unavailable, unable, or refuses to serve as my agent, or I revoke that person's authority to serve as my agent, I hereby appoint the following person as my alternate agent and request that this person be notified immediately when this directive becomes effective or when my original agent is no longer my agent:

Name: . . . . . Address: . . . . . .

Work telephone: . . . . . Home telephone: . . . . . .

Relationship: . . . . . .

C. When My Spouse is My Agent (*initial if desired*)

. . . . . If my spouse is my agent, that person shall remain my agent even if we become legally separated or our marriage is dissolved, unless there is a court order to the contrary or I have remarried.

D. Limitations on My Agent's Authority

I do not grant my agent the authority to consent on my behalf to the following:

. . . . . .

. . . . . .

E. Limitations on My Ability to Revoke this Durable Power of Attorney

I choose to limit my ability to revoke this durable power of attorney as follows:

. . . . . .

. . . . . .

F. Preference as to Court-Appointed Guardian

In the event a court appoints a guardian who will make decisions regarding my mental health treatment, I **nominate** the following person **as my guardian**:

Name: . . . . . Address: . . . . . .

Work telephone: . . . . . Home telephone: . . . . . .

Relationship: . . . . . .

The appointment of a guardian of my estate or my person or any other decision maker shall not give the guardian or decision maker the power to revoke, suspend, or terminate this directive or the powers of my agent, except as authorized by law.

. . . . . .

(Signature required if nomination is made)

PART VII.

OTHER DOCUMENTS

(*Initial all that apply*)

I have executed the following documents that include the power to make decisions regarding health care services for myself:

. . . . . Health care power of attorney (chapter ((~~11.94 RCW~~)) 11.-- RCW (sections 101 through 302 and 501 through 505 of this act))

. . . . . "Living will" (Health care directive; chapter 70.122 RCW)

. . . . . I have appointed more than one agent. I understand that the most recently appointed agent controls except as stated below:

. . . . . .

PART VIII.

NOTIFICATION OF OTHERS AND CARE OF PERSONAL AFFAIRS

(*Fill out this part only if you wish to provide nontreatment instructions.*)

I understand the preferences and instructions in this part are **NOT** the responsibility of my treatment provider and that no treatment provider is required to act on them.

A. Who Should Be Notified

I desire my agent to notify the following individuals as soon as possible when this directive becomes effective:

Name: . . . . . Address: . . . . . .

Day telephone: . . . . . Evening telephone: . . . . . .

Name: . . . . . Address: . . . . . .

Day telephone: . . . . . Evening telephone: . . . . . .

B. Preferences or Instructions About Personal Affairs

I have the following preferences or instructions about my personal affairs (e.g., care of dependents, pets, household) if I am admitted to a mental health treatment facility:

. . . . . .

. . . . . .

C. Additional Preferences and Instructions:

. . . . . .

. . . . . .

. . . . . .

. . . . . .

PART IX.

SIGNATURE

By signing here, I indicate that I understand the purpose and effect of this document and that I am giving my informed consent to the treatments and/or admission to which I have consented or authorized my agent to consent in this directive. I intend that my consent in this directive be construed as being consistent with the elements of informed consent under chapter 7.70 RCW.

Signature: . . . . . Date: . . . . . .

Printed Name: . . . . . .

This directive was signed and declared by the "Principal," to be his or her directive, in our presence who, at his or her request, have signed our names below as witnesses. We declare that, at the time of the creation of this instrument, the Principal is personally known to us, and, according to our best knowledge and belief, has capacity at this time and does not appear to be acting under duress, undue influence, or fraud. We further declare that none of us is:

(A) A person designated to make medical decisions on the principal's behalf;

(B) A health care provider or professional person directly involved with the provision of care to the principal at the time the directive is executed;

(C) An owner, operator, employee, or relative of an owner or operator of a health care facility or long-term care facility in which the principal is a patient or resident;

(D) A person who is related by blood, marriage, or adoption to the person, or with whom the principal has a dating relationship as defined in RCW 26.50.010;

(E) An incapacitated person;

(F) A person who would benefit financially if the principal undergoes mental health treatment; or

(G) A minor.

Witness 1: Signature: . . . . . Date: . . . . . .

Printed Name: . . . . . .

Telephone: . . . . . Address: . . . . . .

Witness 2: Signature: . . . . . Date: . . . . . .

Printed Name: . . . . . .

Telephone: . . . . . Address: . . . . . .

PART X.

RECORD OF DIRECTIVE

I have given a copy of this directive to the following persons: . . . . . .

. . . . . .

DO NOT FILL OUT PART XI UNLESS YOU INTEND TO REVOKE

THIS DIRECTIVE IN PART OR IN WHOLE

PART XI.

REVOCATION OF THIS DIRECTIVE

(*Initial any that apply*):

. . . . . I am revoking the following part(s) of this directive (specify): . . . . . .

. . . . . .

. . . . . I am revoking all of this directive.

By signing here, I indicate that I understand the purpose and effect of my revocation and that no person is bound by any revoked provision(s). I intend this revocation to be interpreted as if I had never completed the revoked provision(s).

Signature: . . . . . Date: . . . . . .

Printed Name: . . . . . .

DO NOT SIGN THIS PART UNLESS YOU INTEND TO REVOKE THIS DIRECTIVE IN PART OR IN WHOLE

PART 5
MISCELLANEOUS PROVISIONS

NEW SECTION. **Sec. 501.** UNIFORMITY OF APPLICATION AND CONSTRUCTION. In applying and construing this chapter, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among the states that enact it.

NEW SECTION. **Sec. 502.** RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT. This act modifies, limits, and supersedes the federal electronic signatures in global and national commerce act (15 U.S.C. Sec. 7001 et seq.), but does not modify, limit, or supersede section 101(c) of that act (15 U.S.C. Sec. 7001(c)), or authorize electronic delivery of any of the notices described in section 103(b) of that act (15 U.S.C. Sec. 7003(b)).

NEW SECTION. **Sec. 503.** EFFECT ON EXISTING POWERS OF ATTORNEY. Except as otherwise provided in this chapter, on the effective date of this act:

(1) This chapter applies to a power of attorney created before, on, or after the effective date of this act;

(2) This chapter applies to a judicial proceeding concerning a power of attorney commenced on or after the effective date of this act;

(3) This chapter applies to a judicial proceeding concerning a power of attorney commenced before the effective date of this act unless the court finds that application of a provision of this act would substantially interfere with the effective conduct of the judicial proceeding or prejudice the rights of a party, in which case that provision does not apply and the superseded law applies; and

(4) An act done before the effective date of this act is not affected by this chapter.

NEW SECTION. **Sec. 504.** SHORT TITLE. This act may be known and cited as the uniform power of attorney act.

NEW SECTION. **Sec. 505.** PART HEADINGS AND CAPTIONS NOT LAW. Part headings and captions used in this act are not any part of the law.

NEW SECTION. **Sec. 506.** The following acts or parts of acts are each repealed:

(1) RCW 11.94.010 (Designation--Authority--Effect of acts done--Appointment of guardian, effect--Accounting--Reliance on instrument) and 2007 c 156 s 31, 2005 c 97 s 12, 2003 c 283 s 27, 1995 c 297 s 9, 1989 c 211 s 1, & 1985 c 30 s 25;

(2) RCW 11.94.020 (Effect of death, disability, or incompetence of principal--Acts without knowledge) and 1985 c 30 s 26;

(3) RCW 11.94.030 (Banking transactions) and 1985 c 30 s 27;

(4) RCW 11.94.040 (Liability for reliance on power of attorney document) and 2001 c 203 s 2 & 1985 c 30 s 28;

(5) RCW 11.94.043 (Durable power of attorney--Revocation or termination) and 1989 c 211 s 2;

(6) RCW 11.94.046 (Durable power of attorney--Validity) and 1989 c 211 s 3;

(7) RCW 11.94.050 (Attorney or agent granted principal's powers--Powers to be specifically provided for--Transfer of resources by principal's attorney or agent) and 2001 c 203 s 12, 1989 c 87 s 1, & 1985 c 30 s 29;

(8) RCW 11.94.060 (Conveyance or encumbrance of homestead) and 1985 c 30 s 30;

(9) RCW 11.94.070 (Limitations on powers to benefit attorneys-in-fact) and 1994 c 221 s 67;

(10) RCW 11.94.080 (Termination of marriage or state registered domestic partnership) and 2007 c 156 s 14 & 2001 c 203 s 1;

(11) RCW 11.94.090 (Court petition) and 2001 c 203 s 3;

(12) RCW 11.94.110 (Ruling on court petition) and 2001 c 203 s 5;

(13) RCW 11.94.120 (Award of costs on court petition) and 2001 c 203 s 6;

(14) RCW 11.94.130 (Applicability of dispute resolution provisions to court petition) and 2001 c 203 s 7;

(15) RCW 11.94.140 (Notice of hearing on court petition) and 2001 c 203 s 8; and

(16) RCW 11.94.150 (Mental health treatment decisions--Compensation

of agent prohibited--Reimbursement of expenses allowed) and 2003 c 283 s 28.

NEW SECTION. **Sec. 507.** Sections 101 through 302 and 501 through 505 of this act constitute a new chapter in Title 11 RCW.

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