



2009 ASSEMBLY BILL 704

1 **AN ACT** *to repeal* 243.07 and 243.10; *to amend* 46.90 (1) (eg) 3., 50.06 (5) (b),
2 54.01 (9), 54.01 (17) (a) 4., 54.01 (17) (b) 4., 54.10 (3) (c) 3., 54.40 (4) (d) 1., 54.46
3 (3) (a) 4., 54.63 (1) (b) 4., 55.075 (4) (a) 4., 155.70 (4) (a), 180.0722 (2) (a),
4 221.0519 (2) and 854.08 (5) (a); and *to create* chapter 244 of the statutes;
5 **relating to:** uniform power of attorney for finances and property.

Analysis by the Legislative Reference Bureau

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

6 **SECTION 1.** 46.90 (1) (eg) 3. of the statutes is amended to read:
7 46.90 (1) (eg) 3. An agent under a power of attorney under ch. 243 244.
8 **SECTION 2.** 50.06 (5) (b) of the statutes is amended to read:
9 50.06 (5) (b) An individual who consents to an admission under this section
10 may not authorize expenditures related to health care if the incapacitated individual

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1 has an agent under a durable power of attorney, as defined in s. ~~243.07 (1) (a)~~ 244.02
2 (3), who may authorize expenditures related to health care.

3 **SECTION 3.** 54.01 (9) of the statutes is amended to read:

4 54.01 **(9)** “Durable power of attorney” has the meaning given in s. ~~243.07 (1)~~
5 ~~(a)~~ 244.02 (3).

6 **SECTION 4.** 54.01 (17) (a) 4. of the statutes is amended to read:

7 54.01 **(17)** (a) 4. Any individual who is nominated as guardian, any individual
8 who is appointed to act as guardian or fiduciary for the proposed ward by a court of
9 any state, any trustee for a trust established by or for the proposed ward, any person
10 appointed as agent under a power of attorney for health care, as defined in s. 155.01
11 (4), or any person appointed as agent under a durable power of attorney under ch.
12 ~~243~~ 244.

13 **SECTION 5.** 54.01 (17) (b) 4. of the statutes is amended to read:

14 54.01 **(17)** (b) 4. Any person appointed as agent under a durable power of
15 attorney under ch. ~~243~~ 244, unless the agency is revoked or terminated by a court.

16 **SECTION 6.** 54.10 (3) (c) 3. of the statutes is amended to read:

17 54.10 **(3)** (c) 3. Whether the proposed ward has engaged in any advance
18 planning for financial and health care decision making that would avoid
19 guardianship, including by executing a durable power of attorney under ch. ~~243~~ 244,
20 a power of attorney for health care, as defined in s. 155.01 (10), a trust, or a jointly
21 held account.

22 **SECTION 7.** 54.40 (4) (d) 1. of the statutes is amended to read:

23 54.40 **(4)** (d) 1. Review any power of attorney for health care under ch. 155, any
24 durable power of attorney under ch. ~~243~~ 244 executed by the proposed ward, and any

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1 other advance planning for financial and health care decision making in which the
2 proposed ward had engaged.

3 **SECTION 8.** 54.46 (3) (a) 4. of the statutes is amended to read:

4 54.46 (3) (a) 4. Whether the ward had executed a durable power of attorney
5 under ~~s. 243.07~~ ch. 244 or a power of attorney for health care under s. 155.05 or had
6 engaged in other advance planning for financial and health care decision making.

7 **SECTION 9.** 54.63 (1) (b) 4. of the statutes is amended to read:

8 54.63 (1) (b) 4. The agent under the ward's power of attorney for health care
9 under ch. 155, if any, and the agent under the ward's durable power of attorney under
10 ch. ~~243~~ 244, if any.

11 **SECTION 10.** 55.075 (4) (a) 4. of the statutes is amended to read:

12 55.075 (4) (a) 4. Whether the individual sought to be protectively placed or
13 protectively served had executed a durable power of attorney for finances and
14 property under ~~s. 243.07~~ ch. 244 or a power of attorney for health care under s. 155.05
15 or had provided advance consent to nursing home admission or engaged in other
16 advance planning to avoid protective placement or protective services.

17 **SECTION 11.** 155.70 (4) (a) of the statutes is amended to read:

18 155.70 (4) (a) Nothing in this chapter may be construed to render invalid a
19 durable power of attorney that is executed under s. 243.07, 2007 stats., prior to April
20 28, 1990.

21 **SECTION 12.** 180.0722 (2) (a) of the statutes is amended to read:

22 180.0722 (2) (a) A shareholder entitled to vote at a meeting of shareholders, or
23 to express consent or dissent in writing to any corporate action without a meeting of
24 shareholders, may authorize another person to act for the shareholder by appointing

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1 the person as proxy. An appointment of a proxy may be in durable form as provided
2 in s. ~~243.07~~ ch. 244.

3 **SECTION 13.** 221.0519 (2) of the statutes is amended to read:

4 221.0519 (2) METHOD OF APPOINTING A PROXY. A shareholder may appoint a
5 proxy to vote or otherwise act for the shareholder by signing an appointment form,
6 either personally or by his or her attorney-in-fact. An appointment of a proxy may
7 be in durable form as provided in s. ~~243.07~~ 244.04.

8 **SECTION 14.** 243.07 of the statutes is repealed.

9 **SECTION 15.** 243.10 of the statutes, as affected by 2009 Wisconsin Act 28, is
10 repealed.

11 **SECTION 16.** Chapter 244 of the statutes is created to read:

12 **CHAPTER 244**

13 **UNIFORM POWER OF ATTORNEY**

14 **FOR FINANCES AND PROPERTY**

15 **SUBCHAPTER I**

16 **GENERAL PROVISIONS**

17 **244.01 Short title.** This chapter may be cited as the Uniform Power of
18 Attorney for Finances and Property Act.

19 **244.02 Definitions.** In this chapter:

20 (1) “Agent” means a person granted authority to act for a principal under a
21 power of attorney, whether denominated an agent, attorney-in-fact, or otherwise.

22 (2) “Domestic partner” has the meaning given in s. 770.01 (1).

23 (3) “Durable power of attorney” means a power of attorney that is not
24 terminated by the principal’s incapacity.

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1 **(4)** “Electronic” means relating to technology having electrical, digital,
2 magnetic, wireless, optical, electromagnetic, or similar capabilities.

3 **(5)** “Genuine” means free of forgery or counterfeiting.

4 **(6)** “Good faith” means honesty in fact.

5 **(7)** “Incapacity” means inability of an individual to manage property, finances,
6 or business affairs because the individual meets one of the following criteria:

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

9 (b) Is missing.

10 (c) Is detained, including incarceration in a correctional facility.

11 (d) Is outside the United States and unable to return.

12 **(8)** “Person” means an individual, corporation, business trust, estate, trust,
13 partnership, limited liability company, association, joint venture, public corporation,
14 government or governmental subdivision, agency, or instrumentality, or any other
15 legal or commercial entity.

16 **(9)** “Power of attorney” means a writing or other record that grants authority
17 to an agent to act in the place of the principal, whether or not the term power of
18 attorney is used.

19 **(10)** “Presently exercisable general power of appointment,” with respect to
20 property or a property interest subject to a power of appointment, means power
21 exercisable at the time in question to vest absolute ownership in the principal
22 individually, the principal’s estate, the principal’s creditors, or the creditors of the
23 principal’s estate. The term does not include a power exercisable in a fiduciary
24 capacity or only by will. The term includes a power of appointment that is exercisable
25 only when one of the following circumstances exists:

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1 (a) The occurrence of a specified event.

2 (b) The satisfaction of an ascertainable standard.

3 (c) The passage of a specified period only after the occurrence of the specified
4 event, the satisfaction of the ascertainable standard, or the passage of the specified
5 period.

6 **(11)** “Principal” means an individual who grants authority to an agent in a
7 power of attorney.

8 **(12)** “Property” means anything that may be the subject of ownership,
9 including real or personal property, or any interest or right in that property.

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

12 **(14)** “Sign” means, with present intent to authenticate or adopt a record, any
13 of the following:

14 (a) To execute or adopt a tangible symbol.

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

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

21 **244.03 Applicability.** This chapter applies to all powers of attorney except for
22 the following:

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

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1 **(2)** A power to make health–care decisions.

2 **(3)** A proxy or other delegation to exercise voting rights or management rights
3 with respect to an entity.

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

6 **244.04 Power of attorney is durable.** A power of attorney created under this
7 chapter is durable unless it expressly provides that it is terminated by the incapacity
8 of the principal.

9 **244.05 Execution of power of attorney.** To execute a power of attorney the
10 principal must sign the power of attorney or another individual, in the principal's
11 conscious presence and directed by the principal, must sign the principal's name on
12 the power of attorney. A signature of the principal on a power of attorney is presumed
13 to be genuine if the principal makes an acknowledgment of the power of attorney
14 before a notarial officer authorized under s. 706.07 to take acknowledgments.

15 **244.06 Validity of power of attorney. (1)** A power of attorney executed in
16 this state on or after the effective date of this subsection [LRB inserts date], is
17 valid if its execution complies with s. 244.05.

18 **(2)** A power of attorney executed in this state before the effective date of this
19 subsection [LRB inserts date], is valid if its execution complied with the law of this
20 state as it existed at the time of execution.

21 **(3)** A power of attorney executed outside this state is valid in this state if, when
22 the power of attorney was executed, the execution complied with one of the following:

23 **(a)** The law of the jurisdiction that determines the meaning and effect of the
24 power of attorney, as provided under s. 244.07.

25 **(b)** The requirements for a military power of attorney under 10 USC 1044b.

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1 **(4)** A photocopy or electronically transmitted copy of an original power of
2 attorney has the same effect as the original.

3 **244.07 Meaning and effect of power of attorney. (1)** The meaning and
4 effect of a power of attorney is determined by the law of the jurisdiction indicated in
5 the power of attorney and, in the absence of an indication of jurisdiction in the power
6 of attorney, by the law of the jurisdiction in which the power of attorney was executed.

7 **(2)** Unless specifically stated, a power of attorney does not authorize gifting,
8 self-dealing, or oral amendment of the power of attorney, and any such specific
9 authority shall be strictly construed.

10 **244.08 Nomination of guardian; relation of agent to court-appointed**
11 **fiduciary. (1)** In a power of attorney, a principal may nominate a guardian of the
12 principal's estate or guardian of the principal's person for consideration by the court
13 if protective proceedings for the principal's estate or person are begun after the
14 principal executes the power of attorney.

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

20 **244.09 When a power of attorney is effective. (1)** A power of attorney is
21 effective when executed unless the principal provides in the power of attorney that
22 it becomes effective at a future date or upon the occurrence of a future event or
23 contingency.

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

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

9 (a) A physician licensed under ch. 448 or a psychologist licensed under ch. 455
10 that the principal is incapacitated within the meaning of s. 244.02 (7) (a).

11 (b) An attorney at law, a judge, or an appropriate governmental official that the
12 principal is incapacitated within the meaning of s. 244.02 (7) (b), (c), or (d).

13 (c) A person authorized by the principal in the power of attorney to determine
14 that the principal is incapacitated may act as the principal's personal representative
15 under 42 USC 1320d, the Health Insurance Portability and Accountability Act, and
16 applicable regulations, to obtain access to the principal's health-care information
17 and communicate with the principal's health care provider.

18 **244.10 Termination of power of attorney or agent's authority. (1)** A
19 power of attorney terminates when any of the following occurs:

20 (a) The principal dies.

21 (b) The principal becomes incapacitated, if the power of attorney so provides.

22 (c) The principal revokes the power of attorney.

23 (d) The power of attorney provides that it terminates.

24 (e) The purpose of the power of attorney is accomplished.

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

4 **(2)** An agent's authority terminates when any of the following occurs:

5 (a) The principal revokes the authority.

6 (b) The agent dies, becomes incapacitated, or resigns.

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

10 (d) The power of attorney terminates.

11 (e) The domestic partnership of the principal and agent under ch. 770 is
12 terminated unless the power of attorney otherwise provides.

13 **(3)** Unless the power of attorney otherwise provides, an agent's authority is
14 exercisable until the authority terminates under sub. (2), notwithstanding a lapse
15 of time since the execution of the power of attorney.

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

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

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

5 **244.11 Coagents and successor agents. (1)** A principal may designate in
6 a power of attorney 2 or more persons to act as coagents. Unless the power of attorney
7 otherwise provides, each coagent may exercise its authority independently.

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

14 (a) Has the same authority as that granted to the original agent.

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

17 **(3)** Except as otherwise provided in the power of attorney and sub. (4), an agent
18 who does not participate in or conceal a breach of fiduciary duty committed by
19 another agent, including a predecessor agent, is not liable for the actions of the other
20 agent.

21 **(4)** An agent who has actual knowledge of a breach or imminent breach of
22 fiduciary duty by another agent shall notify the principal and, if the principal is
23 incapacitated, take any other action reasonably appropriate in the circumstances to
24 safeguard the principal's best interest. An agent who fails to take action as required

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1 by this subsection is liable for the reasonably foreseeable damages that could have
2 been avoided if the agent had notified the principal or taken other action.

3 **244.12 Reimbursement and compensation of agent.** Except as otherwise
4 provided in the power of attorney, an agent is entitled to reimbursement of any
5 expenses reasonably incurred on behalf of the principal and to compensation that is
6 reasonable under the circumstances.

7 **244.13 Agent's acceptance.** Except as otherwise provided in the power of
8 attorney, a person accepts appointment as an agent under a power of attorney by
9 exercising authority or performing duties as an agent or by any other assertion or
10 conduct indicating acceptance.

11 **244.14 Agent's duties. (1)** Notwithstanding any provisions to the contrary
12 in the power of attorney, an agent who has accepted appointment shall do all of the
13 following:

14 (a) Act in accordance with the principal's reasonable expectations to the extent
15 actually known by the agent and, if those expectations are not known, in the
16 principal's best interest,

17 (b) Act in good faith.

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

19 **(2)** Except as otherwise provided in the power of attorney, an agent who has
20 accepted an appointment shall do all of the following:

21 (a) Act loyally for the principal's benefit.

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

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

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

3 (e) Cooperate with a person that has authority to make health-care decisions
4 for the principal to carry out the principal's reasonable expectations to the extent
5 actually known by the agent and, if those expectations are not known, act in the
6 principal's best interest.

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

- 10 1. The value and nature of the principal's property.
- 11 2. The principal's foreseeable obligations and need for maintenance.
- 12 3. The minimization of taxes, including income, estate, inheritance,
13 generation-skipping transfer, and gift taxes.
- 14 4. Eligibility for a benefit, a program, or assistance under a statute, rule, or
15 regulation.

16 **(3)** An agent who acts in good faith is not liable to any beneficiary of the
17 principal's estate plan for failure to preserve the plan.

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

22 **(5)** If an agent is selected by the principal because of special skills or expertise
23 possessed by the agent or in reliance on the agent's representation that the agent has
24 special skills or expertise, the special skills or expertise must be considered in

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1 determining whether the agent has acted with care, competence, and diligence under
2 the circumstances.

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

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

10 (8) Except as otherwise provided in the power of attorney, an agent is not
11 required to disclose receipts, disbursements, or transactions conducted on behalf of
12 the principal unless ordered by a court or requested by one of the following:

13 (a) The principal.

14 (b) A guardian, a conservator, or another fiduciary acting for the principal.

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

17 (d) Upon the death of the principal, by the personal representative or successor
18 in interest of the principal's estate.

19 (9) If ordered or requested to disclose information under sub. (8), the agent
20 shall comply with the request within 30 days or provide a writing or other record
21 substantiating why additional time is needed and shall comply with the request
22 within an additional 30 days.

23 **244.15 Exoneration of agent.** A provision in a power of attorney relieving
24 an agent of liability for breach of duty is binding on the principal and the principal's

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1 successors in interest except to the extent that the provision does any of the
2 following:

3 (1) Relieves the agent of liability for breach of duty committed dishonestly, with
4 an improper motive, or with reckless indifference to the purposes of the power of
5 attorney or the best interest of the principal.

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

8 **244.16 Judicial relief. (1)** The following persons may petition the circuit
9 court of the county where the principal is present or of the county of the principal's
10 legal residence to construe a power of attorney or review the agent's conduct, and
11 grant appropriate relief:

12 (a) The principal or the agent.

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

14 (c) A person authorized to make health-care decisions for the principal.

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

16 (e) The principal's domestic partner.

17 (f) An individual who would qualify as a presumptive heir of the principal.

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

21 (h) A governmental agency having regulatory authority to protect the welfare
22 of the principal.

23 (i) The principal's caregiver or another person that demonstrates sufficient
24 interest in the principal's welfare.

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

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

4 **244.17 Agent’s liability.** An agent who violates this chapter is liable to the
5 principal or the principal’s successors in interest for the amount required to do all
6 of the following:

7 **(1)** Restore the value of the principal’s property to what it would have been had
8 the violation not occurred.

9 **(2)** Reimburse the principal or the principal’s successors in interest for the
10 attorney fees and costs paid on the agent’s behalf.

11 **244.18 Agent’s resignation; notice.** Unless the power of attorney provides
12 a different method for an agent’s resignation, an agent may resign by giving notice
13 to the principal and, if the principal is incapacitated, to any of the following:

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

16 **(2)** If there is no person described in sub. (1), to any of the following:

17 (a) The principal’s caregiver.

18 (b) Another person reasonably believed by the agent to have sufficient interest
19 in the principal’s welfare.

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

22 **244.19 Protection of persons that accept and rely upon an**
23 **acknowledged power of attorney.** **(1)** For purposes of this section and s. 244.20,
24 “acknowledged” means the taking of an acknowledgment before a notarial officer
25 authorized to take acknowledgements under s. 706.07.

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1 **(2)** A person that in good faith accepts an acknowledged power of attorney
2 without actual knowledge that the signature is not genuine may rely upon the
3 presumption under s. 244.05 that the signature is genuine.

4 **(3)** (a) A person that in good faith accepts an acknowledged power of attorney
5 without actual knowledge of any of the following may act as provided in par. (b):

6 1. That the power of attorney is void, invalid, or terminated.

7 2. That the purported agent's authority is void, invalid, or terminated.

8 3. That the agent is exceeding or improperly exercising the agent's authority.

9 (b) A person described in par. (a) may rely upon the power of attorney as if the
10 power of attorney were genuine, valid, and still in effect, the agent's authority were
11 genuine, valid, and still in effect, and the agent had not exceeded and had properly
12 exercised the authority.

13 **(4)** A person who is asked to accept an acknowledged power of attorney may
14 request and rely upon, without further investigation, all of the following:

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

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

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

22 **(5)** An English translation or an opinion of counsel requested under this section
23 must be provided at the principal's expense.

24 **(6)** For purposes of this section, a person that conducts activities through
25 employees is without actual knowledge of a fact relating to a power of attorney, a

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1 principal, or an agent if the employee conducting the transaction involving the power
2 of attorney is without actual knowledge of the fact.

3 **244.20 Refusal to accept acknowledged power of attorney. (1)** A person
4 may, in good faith, refuse to accept an acknowledged power of attorney within 10
5 business days of presentment if any of the following applies:

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

8 (b) Engaging in a transaction with the agent or the principal in the same
9 circumstances would be inconsistent with federal or state law.

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

12 (d) A request for a certification, a translation, or an opinion of counsel under
13 s. 244.19 (4) is refused.

14 (e) The person believes that the power of attorney is not valid, that the agent
15 does not have the authority to perform the act requested, or that the person
16 presenting the power of attorney is not the agent named in the power of attorney,
17 whether or not a certification, a translation, or an opinion of counsel under s. 244.19
18 (4) has been requested or provided.

19 (f) The person makes, or has actual knowledge that another person has made,
20 a report to the designated adult at risk or elder adult at risk agency, or to a law
21 enforcement agency, stating a good faith belief that the principal may be subject to
22 physical or financial abuse, neglect, exploitation, or abandonment by the agent or a
23 person acting for or with the agent.

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1 (g) The person brought, or has actual knowledge that another person has
2 brought, an action under s. 244.16 for construction of a power of attorney or review
3 of the agent's conduct.

4 (h) The power of attorney becomes effective upon the occurrence of an event or
5 contingency, and neither a certification nor evidence of the occurrence of the event
6 or contingency is presented to the person being asked to accept the power of attorney.

7 (i) The person has any other reasonable belief that the power of attorney is
8 illegal or unenforceable and should be refused.

9 **(2)** A person may not refuse to accept an acknowledged power of attorney if any
10 of the following applies:

11 (a) The person's reason for refusal is based exclusively on the date the power
12 of attorney was executed.

13 (b) The person's reason for refusal is based exclusively on a mandate that an
14 additional or different power of attorney form must be used.

15 (c) The person has no good faith basis for refusal under sub. (1).

16 **(3)** If a person requests a certification, a translation, or an opinion of counsel
17 under s. 244.19 (4), the person shall accept the power of attorney no later than 5
18 business days after receipt of the certification, translation, or opinion of counsel,
19 provided that there is no other good faith reason to refuse under sub. (1).

20 **(4)** It is not a refusal to accept an acknowledged power of attorney if any of the
21 following applies:

22 (a) The person requests but does not require that an additional or different
23 power of attorney form be used.

24 (b) The person has requested but has not received a certification, a translation,
25 or an opinion of counsel under s. 244.19 (4).

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- 1 (d) Create or change a beneficiary designation.
- 2 (e) Delegate authority granted under the power of attorney.
- 3 (f) Waive the principal's right to be a beneficiary of a joint and survivor annuity,
4 including a survivor benefit under a retirement plan.
- 5 (g) Exercise fiduciary powers that the principal has authority to delegate.
- 6 (h) Disclaim property, including a power of appointment.
- 7 **(2)** Notwithstanding a grant of authority to do an act described in sub. (1),
8 unless the power of attorney otherwise provides, an agent who is not a spouse or
9 domestic partner of the principal, may not do any of the following:
- 10 (a) Exercise authority under a power of attorney to create in the agent an
11 interest in the principal's property, whether by gift, right of survivorship, beneficiary
12 designation, disclaimer, or otherwise.
- 13 (b) Exercise authority under a power of attorney to create in an individual to
14 whom the agent owes a legal obligation of support, an interest in the principal's
15 property, whether by gift, right of survivorship, beneficiary designation, disclaimer,
16 or otherwise.
- 17 **(3)** Subject to subs. (1), (2), (4), and (5), if a power of attorney grants to an agent
18 the authority to do all acts that a principal could do, the agent has the general
19 authority described in ss. 244.44 to 244.56.
- 20 **(4)** Unless the power of attorney otherwise provides, a grant of authority to
21 make a gift is subject to s. 244.57.
- 22 **(5)** Subject to subs. (1), (2), and (4), if the subjects over which authority is
23 granted in a power of attorney are similar or overlap, the broadest authority controls.
- 24 **(6)** Authority granted in a power of attorney is exercisable with respect to
25 property that the principal has when the power of attorney is executed or acquires

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1 later, whether or not the property is located in this state and whether or not the
2 authority is exercised or the power of attorney is executed in this state.

3 (7) An act performed by an agent pursuant to a power of attorney has the same
4 effect and inures to the benefit of and binds the principal and the principal's
5 successors in interest as if the principal had performed the act.

6 **244.42 Incorporation of authority.** (1) An agent has the authority
7 described in this subchapter if the power of attorney refers to general authority as
8 indicated by section titles for ss. 244.44 to 244.56 or cites the section in which the
9 authority is described.

10 (2) A reference in a power of attorney to general authority with respect to the
11 descriptive term for a subject in ss. 244.44 to 244.56 or a citation to any of ss. 244.44
12 to 244.56 incorporates the entire section as if it were set out in full in the power of
13 attorney.

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

15 **244.43 Construction of authority generally.** Except as otherwise provided
16 in the power of attorney, by executing a power of attorney that incorporates by
17 reference a subject described in ss. 244.44 to 244.56 or that grants to an agent
18 authority to do all acts that a principal could do under s. 244.41 (3), a principal
19 authorizes the agent, with respect to that subject, to do all of the following:

20 (1) Demand, receive, and obtain by any lawful means, money or another thing
21 of value to which the principal is, may become, or claims to be entitled, and conserve,
22 invest, disburse, or use anything so received or obtained for the purposes intended.

23 (2) Contract with any person, on terms agreeable to the agent, to accomplish
24 a purpose of a transaction and perform, rescind, cancel, terminate, reform, restate,

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1 release, or modify the contract or another contract made by or on behalf of the
2 principal.

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

7 (4) Initiate, participate in, submit to alternative dispute resolution, settle,
8 oppose, or propose or accept a compromise with respect to a claim existing in favor
9 of or against the principal or intervene in litigation relating to the claim.

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

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

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

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

18 (9) Access communications intended for, and communicate on behalf of, the
19 principal by any means.

20 (10) Do any lawful act with respect to a subject described in ss. 244.44 to 244.56
21 and all property related to that subject.

22 **244.44 Real property.** Unless the power of attorney otherwise provides,
23 language in a power of attorney granting general authority with respect to real
24 property authorizes the agent to do all of the following:

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

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

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

14 **(4)** Release, assign, satisfy, or enforce by any lawful means a mortgage, deed
15 of trust, conditional sale contract, encumbrance, lien, or other claim to real property
16 which exists or is asserted.

17 **(5)** Manage or conserve an interest in real property or a right incident to real
18 property owned or claimed to be owned by the principal, including by doing any of
19 the following:

20 (a) Insuring against liability or casualty or other loss.

21 (b) Obtaining or regaining possession of or protecting the interest or right by
22 litigation or otherwise.

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

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

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

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

10 (a) Selling or otherwise disposing of the stocks, bonds, or property.

11 (b) Exercising or selling an option, right of conversion, or similar right with
12 respect to the stocks, bonds, or property.

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

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

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

17 **244.45 Tangible personal property.** Unless the power of attorney otherwise
18 provides, language in a power of attorney granting general authority with respect to
19 tangible personal property authorizes the agent to do all of the following:

20 (1) Demand, buy, receive, accept as a gift or as security for an extension of
21 credit, or otherwise acquire or reject ownership or possession of tangible personal
22 property or an interest in tangible personal property.

23 (2) Sell; exchange; convey with or without covenants, representations, or
24 warranties; quit claim; release; surrender; create a security interest in; grant options

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1 concerning; lease; sublease; or otherwise dispose of tangible personal property or an
2 interest in tangible personal property.

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

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

9 (5) Manage or conserve tangible personal property or an interest in tangible
10 personal property on behalf of the principal, including by doing any of the following:

11 (a) Insuring against liability or casualty or other loss.

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

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

16 (d) Moving the property from place to place.

17 (e) Storing the property for hire or under a gratuitous bailment.

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

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

20 **244.46 Stocks and bonds.** Unless the power of attorney otherwise provides,
21 language in a power of attorney granting general authority with respect to stocks and
22 bonds authorizes the agent to do all of the following:

23 (1) Buy, sell, and exchange stocks and bonds.

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

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

3 **(4)** Receive certificates and other evidences of ownership with respect to stocks
4 and bonds.

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

7 **(6)** Exercise in person or by proxy, or enforce by litigation or otherwise, a right,
8 power, privilege, or option the principal has or claims to have as the holder of stocks
9 and bonds.

10 **(7)** Initiate, participate in, submit to alternative dispute resolution, settle,
11 oppose, or propose or accept a compromise with respect to litigation to which the
12 principal is a party concerning stocks and bonds.

13 **244.47 Commodities and options.** Unless the power of attorney otherwise
14 provides, language in a power of attorney granting general authority with respect to
15 commodities and options authorizes the agent to do all of the following:

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

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

20 **244.48 Banks and other financial institutions.** Unless the power of
21 attorney otherwise provides, language in a power of attorney granting general
22 authority with respect to banks and other financial institutions authorizes the agent
23 to do all of the following:

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

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

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

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

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

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

12 **(7)** Borrow money and pledge as security personal property of the principal
13 necessary to borrow money or pay, renew, or extend the time of payment of a debt of
14 the principal or a debt guaranteed by the principal.

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

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

23 **(10)** Apply for, receive, and use letters of credit, credit and debit cards,
24 electronic transaction authorizations, and traveler's checks from a financial

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1 institution and give an indemnity or other agreement in connection with letters of
2 credit.

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

5 **244.49 Operation of entity or business.** Subject to the terms of a document
6 or an agreement governing an entity or business or an entity or business ownership
7 interest, and unless the power of attorney otherwise provides, language in a power
8 of attorney granting general authority with respect to operation of an entity or
9 business authorizes the agent to do all of the following:

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

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

13 (3) Enforce the terms of an ownership agreement.

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

17 (5) Exercise in person or by proxy, or enforce by litigation or otherwise, a right,
18 power, privilege, or option the principal has or claims to have as the holder of stocks
19 and bonds.

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

23 (7) With respect to an entity or business owned solely by the principal, do all
24 of the following:

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

4 (b) Determine all of the following:

5 1. The location of its operation.

6 2. The nature and extent of its business.

7 3. The methods of manufacturing, selling, merchandising, financing,
8 accounting, and advertising employed in its operation.

9 4. The amount and types of insurance carried.

10 5. The mode of engaging, compensating, and dealing with its employees and
11 accountants, attorneys, or other advisors.

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

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

18 **(8)** Put additional capital into an entity or business in which the principal has
19 an interest.

20 **(9)** Join in a plan of reorganization, consolidation, conversion, domestication,
21 or merger of the entity or business.

22 **(10)** Sell or liquidate all or part of an entity or business.

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

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

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

9 **244.50 Insurance and annuities.** Unless the power of attorney otherwise
10 provides, language in a power of attorney granting general authority with respect to
11 insurance and annuities authorizes the agent to do all of the following:

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

16 **(2)** Procure new, different, and additional contracts of insurance and annuities
17 for the principal and the principal's spouse or domestic partner, children, and other
18 dependents, and select the amount, type of insurance or annuity, and mode of
19 payment.

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

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

23 **(5)** Surrender and receive the cash surrender value on a contract of insurance
24 or annuity.

25 **(6)** Exercise an election.

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1 **(7)** Exercise investment powers available under a contract of insurance or
2 annuity.

3 **(8)** Change the manner of paying premiums on a contract of insurance or
4 annuity.

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

7 **(10)** Apply for and procure a benefit or assistance under a statute, rule, or
8 regulation to guarantee or pay premiums of a contract of insurance on the life of the
9 principal.

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

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

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

18 **244.51 Estates, trusts, and other beneficial interests. (1)** In this section,
19 “estates, trusts, and other beneficial interests” means a trust, probate estate,
20 guardianship, conservatorship, escrow, or custodianship or a fund from which the
21 principal is, may become, or claims to be, entitled to a share or payment.

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

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- 1 (a) Accept, receive, receipt for, sell, assign, pledge, or exchange a share in or
2 payment from an estate, trust, or beneficial interest.
- 3 (b) Demand or obtain money or another thing of value to which the principal
4 is, may become, or claims to be, entitled by reason of an estate, trust, or beneficial
5 interest, by litigation or otherwise.
- 6 (c) Exercise for the benefit of the principal a presently exercisable general
7 power of appointment held by the principal.
- 8 (d) Initiate, participate in, submit to alternative dispute resolution, settle,
9 oppose, or propose or accept a compromise with respect to litigation to ascertain the
10 meaning, validity, or effect of a deed, will, declaration of trust, or other instrument
11 or transaction affecting the interest of the principal.
- 12 (e) Initiate, participate in, submit to alternative dispute resolution, settle,
13 oppose, or propose or accept a compromise with respect to litigation to remove,
14 substitute, or surcharge a fiduciary.
- 15 (f) Conserve, invest, disburse, or use anything received for an authorized
16 purpose.
- 17 (g) Transfer an interest of the principal in real property, stocks and bonds,
18 accounts with financial institutions or securities intermediaries, insurance,
19 annuities, and other property to the trustee of a revocable trust created by the
20 principal as settlor.
- 21 (h) Sign a waiver or consent in a probate matter.
- 22 (i) Reject, renounce, disclaim, release, or consent to a reduction in or
23 modification of a share in or payment from an estate, trust, or beneficial interest.

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1 **244.52 Claims and litigation.** Unless the power of attorney otherwise
2 provides, language in a power of attorney granting general authority with respect to
3 claims and litigation authorizes the agent to do all of the following:

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

9 **(2)** Bring an action to determine adverse claims or intervene or otherwise
10 participate in litigation.

11 **(3)** Seek an attachment, garnishment, order of arrest, or other preliminary,
12 provisional, or intermediate relief and use any available procedure to effect or satisfy
13 a judgment, order, or decree.

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

17 **(5)** Submit to alternative dispute resolution, settle, and propose or accept a
18 compromise.

19 **(6)** Waive the issuance and service of process upon the principal, accept service
20 of process, appear for the principal, designate persons upon which process directed
21 to the principal may be served, execute and file or deliver stipulations on the
22 principal's behalf, verify pleadings, seek appellate review, procure and give surety
23 and indemnity bonds, contract and pay for the preparation and printing of records
24 and briefs, receive, execute, and file or deliver a consent, waiver, release, confession

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1 of judgment, satisfaction of judgment, notice, agreement, or other instrument in
2 connection with the prosecution, settlement, or defense of a claim or litigation.

3 (7) Act for the principal with respect to bankruptcy or insolvency, whether
4 voluntary or involuntary, concerning the principal or some other person, or with
5 respect to a reorganization, receivership, or application for the appointment of a
6 receiver or trustee which affects an interest of the principal in property or other thing
7 of value.

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

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

12 **244.53 Personal and family maintenance.** (1) Unless the power of
13 attorney otherwise provides, language in a power of attorney granting general
14 authority with respect to personal and family maintenance authorizes the agent to
15 do all of the following:

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

20 1. The principal's children.

21 2. Other individuals legally entitled to be supported by the principal.

22 3. The individuals whom the principal has customarily supported or indicated
23 the intent to support.

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

4 (c) Provide living quarters for the individuals described in par. (a) by doing any
5 of the following:

6 1. Purchasing, leasing, or entering into a contract.

7 2. Paying the operating costs, including interest, amortization payments,
8 repairs, improvements, and taxes, for premises owned by the principal or occupied
9 by those individuals.

10 (d) Provide normal domestic help, usual vacations and travel expenses, and
11 funds for shelter, clothing, food, appropriate education, including postsecondary and
12 vocational education, and other current living costs for the individuals described in
13 par. (a).

14 (e) Pay expenses for necessary health care and custodial care on behalf of the
15 individuals described in par. (a).

16 (f) Act as the principal's personal representative under 42 USC 1320d, the
17 Health Insurance Portability and Accountability Act, and applicable regulations, in
18 making decisions related to the past, present, or future payment for the provision of
19 health care consented to by the principal or anyone authorized under the law of this
20 state to consent to health care on behalf of the principal.

21 (g) Continue any provision made by the principal for motor vehicles or other
22 means of transportation, including registering, licensing, insuring, and replacing
23 the vehicles, for the individuals described in par. (a).

24 (h) Maintain credit and debit accounts for the convenience of the individuals
25 described in par. (a) and open new accounts.

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

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

7 **244.54 Benefits from governmental programs or civil or military**
8 **service. (1)** In this section, “benefits from governmental programs or civil or
9 military service” means any benefit, program or assistance provided under a statute,
10 rule, or regulation, including social security, medicare, and medicaid.

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

14 (a) Execute vouchers in the name of the principal for allowances and
15 reimbursements payable by the United States or a foreign government or by a state
16 or subdivision of a state to the principal, including allowances and reimbursements
17 for transportation of the individuals described in s. 244.53 (1) (a), and for shipment
18 of their household effects.

19 (b) Take possession and order the removal and shipment of property of the
20 principal from a post, warehouse, depot, dock, or other place of storage or
21 safekeeping, either governmental or private, and execute and deliver a release,
22 voucher, receipt, bill of lading, shipping ticket, certificate, or other instrument for
23 that purpose.

24 (c) Enroll in, apply for, select, reject, change, amend, or discontinue, on the
25 principal’s behalf, a benefit or program.

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

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

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

10 **244.55 Retirement plans. (1)** In this section, “retirement plan” means a plan
11 or account created by an employer, the principal, or another individual to provide
12 retirement benefits or deferred compensation of which the principal is a participant,
13 beneficiary, or owner, including the following plans or accounts:

14 (a) An individual retirement account under section 408 of the Internal Revenue
15 Code.

16 (b) A Roth individual retirement account under section 408A of the Internal
17 Revenue Code.

18 (c) A deemed individual retirement account under section 408 (q) of the
19 Internal Revenue Code.

20 (d) An annuity or mutual fund custodial account under section 403 (b) of the
21 Internal Revenue Code.

22 (e) A pension, profit-sharing, stock bonus, or other retirement plan qualified
23 under section 401 (a) of the Internal Revenue Code.

24 (f) A plan under section 457 (b) of the Internal Revenue Code.

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1 (g) A nonqualified deferred compensation plan under section 409A of the
2 Internal Revenue Code.

3 (2) Unless the power of attorney otherwise provides, language in a power of
4 attorney granting general authority with respect to retirement plans authorizes the
5 agent to do all of the following:

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

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

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

11 (d) Make contributions to a retirement plan.

12 (e) Exercise investment powers available under a retirement plan.

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

14 **244.56 Taxes.** Unless the power of attorney otherwise provides, language in
15 a power of attorney granting general authority with respect to taxes authorizes the
16 agent to do all of the following:

17 (1) Prepare, sign, and file federal, state, local, and foreign income, gift, payroll,
18 property, Federal Insurance Contributions Act, and other tax returns, claims for
19 refunds, requests for extension of time, petitions regarding tax matters, and any
20 other tax-related documents, including receipts, offers, waivers, consents, including
21 consents and agreements under 2032A of the Internal Revenue Code, closing
22 agreements, and any power of attorney required by the Internal Revenue Service or
23 other taxing authority with respect to a tax year upon which the statute of
24 limitations has not run and the following 25 tax years.

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1 **(2)** Pay taxes due, collect refunds, post bonds, receive confidential information,
2 and contest deficiencies determined by the Internal Revenue Service or other taxing
3 authority.

4 **(3)** Exercise any election available to the principal under federal, state, local,
5 or foreign tax law.

6 **(4)** Act for the principal in all tax matters for all periods before the Internal
7 Revenue Service, or other taxing authority.

8 **244.57 Gifts. (1)** In this section, a gift “for the benefit of” a person includes
9 a gift to a trust, an account under ss. 54.854 to 54.898, and a tuition savings account
10 or prepaid tuition plan as defined under section 529 of the Internal Revenue Code.

11 **(2)** Unless the power of attorney otherwise provides, language in a power of
12 attorney granting general authority with respect to gifts authorizes the agent to do
13 all of the following:

14 (a) Make outright to, or for the benefit of, a person, a gift of any of the principal’s
15 property, including by the exercise of a presently exercisable general power of
16 appointment held by the principal, in an amount per donee not to exceed the annual
17 dollar limits of the federal gift tax exclusion under section 2503 (b) of the Internal
18 Revenue Code, without regard to whether the federal gift tax exclusion applies to the
19 gift, or if the principal’s spouse agrees to consent to a split gift under section 2513 of
20 the Internal Revenue Code, in an amount per donee not to exceed twice the annual
21 federal gift tax exclusion limit.

22 (b) Consent, under section 2513 of the Internal Revenue Code, to the splitting
23 of a gift made by the principal’s spouse in an amount per donee not to exceed the
24 aggregate annual gift tax exclusions for both spouses.

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1 (c) Make a gift of the principal's property only as the agent determines is
2 consistent with the principal's objectives if actually known by the agent and, if
3 unknown, as the agent determines is consistent with the principal's best interest
4 based on all relevant factors, including all of the following:

- 5 1. The value and nature of the principal's property.
- 6 2. The principal's foreseeable obligations and need for maintenance.
- 7 3. Minimization of taxes, including income, estate, inheritance, generation
8 skipping transfer, and gift taxes.
- 9 4. Eligibility for a benefit, a program, or assistance under a statute, rule, or
10 regulation.
- 11 5. The principal's personal history of making or joining in making gifts.

244.61 Statutory Form Power of Attorney for Finances and Property.

13 A document substantially in the following form may be used to create a statutory
14 form power of attorney that has the meaning and effect prescribed by this chapter.
15 An appendix shall be attached to this form that includes the text of ss. 244.44 to
16 244.56. The appendix is for definitions only. The agent has powers only regarding
17 the subjects initialed on the form.

WISCONSIN**STATUTORY FORM****POWER OF ATTORNEY****FOR FINANCES AND PROPERTY****IMPORTANT INFORMATION**

23 THIS POWER OF ATTORNEY AUTHORIZES ANOTHER PERSON (YOUR
24 AGENT) TO MAKE DECISIONS CONCERNING YOUR PROPERTY FOR YOU
25 (THE PRINCIPAL). YOUR AGENT WILL BE ABLE TO MAKE DECISIONS AND

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1 ACT WITH RESPECT TO YOUR PROPERTY (INCLUDING YOUR MONEY)
2 WHETHER OR NOT YOU ARE ABLE TO ACT FOR YOURSELF. THE MEANING
3 OF AUTHORITY OVER SUBJECTS LISTED ON THIS FORM IS EXPLAINED IN
4 THE UNIFORM POWER OF ATTORNEY FOR FINANCES AND PROPERTY ACT
5 IN CHAPTER 244 OF THE WISCONSIN STATUTES.

6 THIS POWER OF ATTORNEY DOES NOT AUTHORIZE THE AGENT TO
7 MAKE HEALTH-CARE DECISIONS FOR YOU.

8 YOU SHOULD SELECT SOMEONE YOU TRUST TO SERVE AS YOUR
9 AGENT. UNLESS YOU SPECIFY OTHERWISE, GENERALLY THE AGENT'S
10 AUTHORITY WILL CONTINUE UNTIL YOU DIE OR REVOKE THE POWER OF
11 ATTORNEY OR THE AGENT RESIGNS OR IS UNABLE TO ACT FOR YOU.

12 YOUR AGENT IS ENTITLED TO REASONABLE COMPENSATION
13 UNLESS YOU STATE OTHERWISE IN THE SPECIAL INSTRUCTIONS.

14 THIS FORM PROVIDES FOR DESIGNATION OF ONE AGENT. IF YOU
15 WISH TO NAME MORE THAN ONE AGENT YOU MAY NAME A COAGENT IN
16 THE SPECIAL INSTRUCTIONS. COAGENTS ARE NOT REQUIRED TO ACT
17 TOGETHER UNLESS YOU INCLUDE THAT REQUIREMENT IN THE SPECIAL
18 INSTRUCTIONS.

19 IF YOUR AGENT IS UNABLE OR UNWILLING TO ACT FOR YOU, YOUR
20 POWER OF ATTORNEY WILL END UNLESS YOU HAVE NAMED A
21 SUCCESSOR AGENT. YOU MAY ALSO NAME A 2ND SUCCESSOR AGENT.

22 THIS POWER OF ATTORNEY BECOMES EFFECTIVE IMMEDIATELY
23 UNLESS YOU STATE OTHERWISE IN THE SPECIAL INSTRUCTIONS. THIS
24 POWER OF ATTORNEY DOES NOT REVOKE ANY POWER OF ATTORNEY

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1 EXECUTED PREVIOUSLY UNLESS YOU SO PROVIDE IN THE SPECIAL
2 INSTRUCTIONS.

3 IF YOU REVOKE THIS POWER OF ATTORNEY, YOU SHOULD NOTIFY
4 YOUR AGENT AND ANY OTHER PERSON TO WHOM YOU HAVE GIVEN A
5 COPY. IF YOUR AGENT IS YOUR SPOUSE OR DOMESTIC PARTNER AND
6 YOUR MARRIAGE IS ANNULLED OR YOU ARE DIVORCED OR LEGALLY
7 SEPARATED OR THE DOMESTIC PARTNERSHIP IS TERMINATED AFTER
8 SIGNING THIS DOCUMENT, THE DOCUMENT IS INVALID.

9 IF YOU HAVE QUESTIONS ABOUT THE POWER OF ATTORNEY OR THE
10 AUTHORITY YOU ARE GRANTING TO YOUR AGENT, YOU SHOULD SEEK
11 LEGAL ADVICE BEFORE SIGNING THIS FORM.

12 DESIGNATION OF AGENT

13 I ... (name of principal) name the following person as my agent:

14 Name of agent:

15 Agent's address:

16 Agent's telephone number:

17 DESIGNATION OF SUCCESSOR AGENT(S)

18 (OPTIONAL)

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

20 Name of successor agent:

21 Successor agent's address:

22 Successor agent's telephone number:

23 If my successor agent is unable or unwilling to act for me, I name as my 2nd
24 successor agent:

25 Name of 2nd successor agent:

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1 Second successor agent’s address:

2 Second successor agent’s telephone number:

3 GRANT OF GENERAL AUTHORITY

4 I grant my agent and any successor agent general authority to act for me with
5 respect to the following subjects as defined in the Uniform Power of Attorney for
6 Finances and Property Act in chapter 244 of the Wisconsin statutes:

7 INITIAL each subject you want to include in the agent’s general authority.

8 Real property

9 Tangible personal property

10 Stocks and bonds

11 Commodities and options

12 Banks and other financial institutions

13 Operation of entity or business

14 Insurance and annuities

15 Estates, trusts, and other beneficial interests

16 Claims and litigation

17 Personal and family maintenance

18 Benefits from governmental programs or civil or military service

19 Retirement plans

20 Taxes

21 LIMITATION ON AGENT’S AUTHORITY

22 An agent who is not my spouse or domestic partner MAY NOT use my property
23 to benefit the agent or a person to whom the agent owes an obligation of support
24 unless I have included that authority in the special instructions.

25 SPECIAL INSTRUCTIONS (OPTIONAL)

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1 Your name printed

2 Your address

3 Your telephone number

4 State of

5 County of

6 This document was acknowledged before me on (date), by (name of
7 principal).

8 (Seal, if any)

9 Signature of notary

10 My commission expires:

11 This document prepared by:

12 **IMPORTANT INFORMATION FOR AGENT**

13 **AGENT'S DUTIES**

14 **WHEN YOU ACCEPT THE AUTHORITY GRANTED UNDER THIS POWER**
15 **OF ATTORNEY, A SPECIAL LEGAL RELATIONSHIP IS CREATED BETWEEN**
16 **YOU AND THE PRINCIPAL. THIS RELATIONSHIP IMPOSES UPON YOU**
17 **LEGAL DUTIES THAT CONTINUE UNTIL YOU RESIGN OR THE POWER OF**
18 **ATTORNEY IS TERMINATED OR REVOKED. YOU MUST DO ALL OF THE**
19 **FOLLOWING:**

20 (1) **DO WHAT YOU KNOW THE PRINCIPAL REASONABLY EXPECTS YOU**
21 **TO DO WITH THE PRINCIPAL'S PROPERTY OR, IF YOU DO NOT KNOW THE**
22 **PRINCIPAL'S EXPECTATIONS, ACT IN THE PRINCIPAL'S BEST INTEREST.**

23 (2) **ACT IN GOOD FAITH.**

24 (3) **DO NOTHING BEYOND THE AUTHORITY GRANTED IN THIS POWER**
25 **OF ATTORNEY.**

ASSEMBLY BILL 704**SECTION 16**

1 TERMINATE A POWER OF ATTORNEY OR YOUR AUTHORITY TO ACT UNDER
2 A POWER OF ATTORNEY INCLUDE ALL OF THE FOLLOWING:

3 (1) DEATH OF THE PRINCIPAL.

4 (2) THE PRINCIPAL'S REVOCATION OF THE POWER OF ATTORNEY OR
5 YOUR AUTHORITY.

6 (3) THE OCCURRENCE OF A TERMINATION EVENT STATED IN THE
7 POWER OF ATTORNEY.

8 (4) THE PURPOSE OF THE POWER OF ATTORNEY IS FULLY
9 ACCOMPLISHED.

10 (5) IF YOU ARE MARRIED TO THE PRINCIPAL, A LEGAL ACTION IS
11 FILED WITH A COURT TO END YOUR MARRIAGE, OR FOR YOUR LEGAL
12 SEPARATION, UNLESS THE SPECIAL INSTRUCTIONS IN THIS POWER OF
13 ATTORNEY STATE THAT SUCH AN ACTION WILL NOT TERMINATE YOUR
14 AUTHORITY.

15 (6) IF YOU ARE THE PRINCIPAL'S DOMESTIC PARTNER AND YOUR
16 DOMESTIC PARTNERSHIP IS TERMINATED, UNLESS THE SPECIAL
17 INSTRUCTIONS IN THIS POWER OF ATTORNEY STATE THAT SUCH AN
18 ACTION WILL NOT TERMINATE YOUR AUTHORITY.

19 **LIABILITY OF AGENT**

20 THE MEANING OF THE AUTHORITY GRANTED TO YOU IS DEFINED IN
21 THE UNIFORM POWER OF ATTORNEY FOR FINANCES AND PROPERTY ACT
22 IN CHAPTER 244 OF THE WISCONSIN STATUTES. IF YOU VIOLATE THE
23 UNIFORM POWER OF ATTORNEY FOR FINANCES AND PROPERTY ACT IN
24 CHAPTER 244 OF THE WISCONSIN STATUTES OR ACT OUTSIDE THE

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1 AUTHORITY GRANTED, YOU MAY BE LIABLE FOR ANY DAMAGES CAUSED
2 BY YOUR VIOLATION.

3 IF THERE IS ANYTHING ABOUT THIS DOCUMENT OR YOUR DUTIES
4 THAT YOU DO NOT UNDERSTAND, YOU SHOULD SEEK LEGAL ADVICE.

5 OPTIONAL SIGNATURE OF AGENT

6 I HAVE READ AND ACCEPT THE DUTIES AND LIABILITIES OF THE
7 AGENT AS SPECIFIED IN THIS POWER OF ATTORNEY.

8 Agent's signature Date ...

9 (APPENDIX FOLLOWS)

10 **244.62 Agent's certification.** The following optional form may be used by an
11 agent to certify facts concerning a power of attorney for finances and property:

12 AGENT'S CERTIFICATION AS TO THE VALIDITY OF POWER
13 OF ATTORNEY FOR FINANCES AND PROPERTY AND AGENT'S
14 AUTHORITY

15 State of

16 County of

17 I, (name of agent), certify under penalty of perjury that (name of principal)
18 granted me authority as an agent or successor agent in a power of attorney dated

19 I further certify that to my knowledge:

20 (1) The principal is alive and has not revoked the power of attorney or my
21 authority to act under the power of attorney, and the power of attorney and my
22 authority to act under the power of attorney have not terminated.

23 (2) If the power of attorney was drafted to become effective upon the happening
24 of an event or contingency, the event or contingency has occurred.

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1 (3) If I was named as a successor agent, the prior agent is no longer able or
2 willing to serve.

3 (4) (insert other relevant statements).

4 **SIGNATURE AND ACKNOWLEDGMENT**

5 Agent’s signature Date

6 Agent’s name printed

7 Agent’s address

8 Agent’s telephone number

9 This document was acknowledged before me on (date), by (name of agent).

10 (Seal, if any)

11 Signature of notary

12 My commission expires:

13 This document prepared by:

14 **244.63 Distribution of forms.** The department of health services shall
15 prepare and provide copies of the Wisconsin statutory form power of attorney for
16 finances and property for distribution in quantities to financial institutions, health
17 care professionals, hospitals, nursing homes, multipurpose senior centers, county
18 clerks and local bar associations and individually to private persons. The
19 department of health services may charge a reasonable fee for the cost of preparation
20 and distribution of the forms.

21 **244.64 Relation to power of attorney for health care.** The execution of
22 a Wisconsin statutory form power of attorney for finances and property under this
23 chapter does not confer on the agent any of the powers or duties conferred on a health
24 care agent by the power of attorney for health care under ch. 155.

25 **SECTION 17.** 854.08 (5) (a) of the statutes is amended to read:

