

## CHAPTER 244

### UNIFORM POWER OF ATTORNEY FOR FINANCES AND PROPERTY

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#### SUBCHAPTER I GENERAL PROVISIONS

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

**History:** 2009 a. 319.  
Procedural Gray Areas: New POA for Finances. Beermann & Johnson. Wis. Law. Oct. 2011.

**244.02 Definitions.** In this chapter:

(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.

(2) "Domestic partner" has the meaning given in s. 770.01 (1).

(3) "Durable power of attorney" means a power of attorney that is not terminated by the principal's incapacity.

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

(5) "Genuine" means free of forgery or counterfeiting.

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

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

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

(b) Is missing.

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

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

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

(9) "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.

(10) "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 does not include a power exercisable in a fiduciary capacity or only by will. The term includes a power of appointment that is exercisable only when one of the following circumstances exists:

(a) The occurrence of a specified event.

(b) The satisfaction of an ascertainable standard.

(c) 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.

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

(12) "Property" means anything that may be the subject of ownership, including real or personal property, digital property, as defined in s. 711.03 (10), or any interest or right in that property.

(13) "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.

(14) "Sign" means, with present intent to authenticate or adopt a record, any of the following:

(a) To execute or adopt a tangible symbol.

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

(15) "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.

**History:** 2009 a. 319; 2015 a. 300.

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

(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.

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

**History:** 2009 a. 319.

Offering Clarity and Guidance: New Uniform Power of Attorney for Finances and Property. Collins, Hatch, & Wilcox. Wis. Law. June 2010.

**244.04 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.

**History:** 2009 a. 319.

**244.05 Execution of power of attorney.** (1) To execute a power of attorney, the principal must sign the power of attorney, or an individual 18 years of age or older at the express direction and in the physical presence of the principal must sign the principal's name on the power of attorney.

(2) A signature of the principal, or the signature of an individual signing on behalf of the principal, on a power of attorney is presumed to be genuine if the principal makes an acknowledgment of the power of attorney before a notarial officer authorized under ch. 140 to take acknowledgments.

(3) A signature of the principal, or the signature of an individual signing on behalf of the principal, on a power of attorney is presumed to be genuine if the signing is witnessed by 2 witnesses via simultaneous remote appearance by 2-way, real-time audiovisual communication technology if all of the following conditions are satisfied:

(a) The signing is supervised by an attorney in good standing licensed by this state. The supervising attorney may serve as one of the remote witnesses.

(b) The principal attests to being physically located in this state during the 2-way, real-time audiovisual communication.

(c) Each remote witness attests to being physically located in this state during the 2-way, real-time audiovisual communication.

(d) The principal and each of the remote witnesses identify themselves. If the principal and remote witnesses are not personally known to each other and to the supervising attorney, the principal and each of the remote witnesses display photo identification.

(e) The principal identifies anyone else present in the same physical location as the principal and, if possible, the principal makes a visual sweep of the principal's physical surroundings so that the supervising attorney and each remote witness can confirm the presence of any other person.

(f) The principal displays the power of attorney, confirms the total number of pages and the page number of the page on which the principal's signature will be affixed, and declares to the remote witnesses and the supervising attorney all of the following:

1. That the principal is 18 years of age or older.
2. That the document is the principal's power of attorney.
3. That the document is being executed as a voluntary act.

(g) The principal, or another individual 18 years of age or older at the express direction and in the physical presence of the principal, signs the power of attorney in a manner that allows each of the remote witnesses and the supervising attorney to see the execution.

(h) The audiovisual communication technology used allows communication by which a person is able to see, hear, and communicate in an interactive way with another person in real time using electronic means, except that if the principal, a remote witness, or the supervising attorney has an impairment that affects hearing, sight, or speech, assistive technology or learned skills may be substituted for audio or visual if it allows that person to actively participate in the signing in real time.

(i) The power of attorney indicates that it is being executed pursuant to this section.

(j) One of the following occurs:

1. The principal, or another person at the direction of the principal, personally delivers or transmits by U.S. mail or commercial courier service the entire signed original power of attorney to the supervising attorney within a reasonable time after execution. The supervising attorney then personally delivers or transmits by U.S. mail or commercial courier service the entire signed original power of attorney to the remote witnesses within a reasonable time. The first remote witness to receive the original power of attorney signs the original power of attorney as a witness and forwards the entire signed original power of attorney by personal delivery or U.S. mail or commercial courier service within a reasonable time to the 2nd remote witness, who signs it as a witness and forwards the entire signed original power of attorney by personal delivery or U.S. mail or commercial courier service within a reasonable time to the supervising attorney.

2. The principal, or another person at the direction of the principal, personally delivers or transmits by U.S. mail or commercial courier service the entire signed original power of attorney to the supervising attorney within a reasonable time after execution and transmits by facsimile or electronic means a legible copy of the entire signed power of attorney directly to each remote witness within a reasonable time after execution. Each remote witness then signs the transmitted copy of the power of attorney as a witness and personally delivers or transmits by U.S. mail or commercial courier service the entire signed copy of the power of attorney to the supervising attorney within a reasonable time after witnessing. The signed original and signed copies together shall constitute one original document, unless the supervising attorney, within a reasonable time after receiving the signed original and signed copies, compiles the signed original and signed copies into one document by attaching the signature pages of each remote witness to the original signed by or on behalf of the principal, in which case the compiled document shall constitute the original.

3. The principal and each of the remote witnesses sign identical copies of the original. The principal, or another person at the direction of the principal, and each of the remote witnesses personally deliver or transmit by U.S. mail or commercial courier service the signed originals to the supervising attorney within a reasonable time after execution. All of the signed originals together shall constitute one original document, unless the supervising attorney, within a reasonable time after receiving all signed originals, compiles the originals into one document by attaching the signature pages of each remote witness to the original signed by or on behalf of the principal, in which case the compiled document shall constitute the original.

(k) The supervising attorney completes an affidavit of compliance that contains all of the following information:

1. The name and residential address of the principal.
2. The name and residential or business address of each remote witness.
3. The address within this state where the principal was physically located at the time the principal signed the power of attorney.

### 3 Updated 23-24 Wis. Stats. Database

4. The address within this state where each remote witness was physically located at the time the remote witness witnessed the principal's execution of the power of attorney.

5. A statement that the principal and remote witnesses were all known to each other and the supervising attorney or a description of the form of photo identification used to confirm the identity of the principal and each remote witness.

6. Confirmation that the principal declared that the principal is 18 years of age or older, that the document is the principal's power of attorney, and that the document was being executed as the principal's voluntary act.

7. Confirmation that each of the remote witnesses and the supervising attorney were able to see the principal, or another individual 18 years of age or older at the express direction and in the physical presence of the principal, sign, and that the principal appeared to be 18 years of age or older and acting voluntarily.

8. A description of the audiovisual technology used for the signing process.

9. If the power of attorney was not signed in counterpart, a description of the method used to forward the power of attorney to each remote witness for signing and to the supervising attorney after signing.

10. If the power of attorney was signed in counterpart, a description of the method used to forward each counterpart to the supervising attorney and, if applicable, how and when the supervising attorney physically compiled the signed paper counterparts into a single document containing the power of attorney, the signature of the principal, and the signatures of the remote witnesses.

11. The name, state bar number, and business or residential address of the supervising attorney.

12. Any other information that the supervising attorney considers to be material with respect to the principal's capacity to sign a valid power of attorney, the principal's and witnesses' compliance with this section, or any other information that the supervising attorney deems relevant to the execution of the power of attorney.

(L) The affidavit of compliance is attached to the power of attorney.

(m) An affidavit of compliance described in this subsection shall be substantially in the following form:

#### AFFIDAVIT OF COMPLIANCE

State of ....

County of ....

The undersigned, being first duly sworn under oath, states as follows:

This Affidavit of Compliance is executed pursuant to Wis. Stat. § 244.05 to document the execution of the power of attorney of [name of principal] via remote appearance by 2-way, real-time audiovisual communication technology on [date].

1. The name and residential address of the principal is ....

2. The name and [residential or business] address of remote witness 1 is ....

3. The name and [residential or business] address of remote witness 2 is ....

4. The address within the state of Wisconsin where the principal was physically located at the time the principal signed the power of attorney is ....

5. The address within the state of Wisconsin where remote witness 1 was physically located at the time the remote witness witnessed the principal's execution of the power of attorney is ....

6. The address within the state of Wisconsin where remote

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witness 2 was physically located at the time the remote witness witnessed the principal's execution of the power of attorney is ....

7. The principal and remote witnesses were all known to each other and to the supervising attorney. - OR - The principal and remote witnesses were not all known to each other and to the supervising attorney. Each produced the following form of photo identification to confirm his or her identity:

....

8. The principal declared that the principal is 18 years of age or older, that the document is the principal's power of attorney, and that the document was being executed as the principal's voluntary act.

9. Each of the remote witnesses and the supervising attorney were able to see the principal, or another individual 18 years of age or older at the express direction and in the physical presence of the principal, sign. The principal appeared to be 18 years of age or older and acting voluntarily.

10. The audiovisual technology used for the signing process was ....

11. The power of attorney was not signed in counterpart. The following methods were used to forward the power of attorney to each remote witness for signing and to the supervising attorney after signing. - OR - The power of attorney was signed in counterpart. The following methods were used to forward each counterpart to the supervising attorney. [If applicable] - The supervising attorney physically compiled the signed paper counterparts into a single document containing the power of attorney, the signature of the principal, and the signatures of the remote witnesses on [date] by [e.g., attaching page 7 from each counterpart signed by a remote witness to the back of the power of attorney signed by the principal].

12. The name, state bar number, and business or residential address of the supervising attorney is ....

13. [Optional] Other information that the supervising attorney considers to be material is as follows: ....

.... (signature of supervising attorney)

Subscribed and sworn to before me on .... (date) by .... (name of supervising attorney).

.... (signature of notarial officer)

Stamp

.... (Title of office)

[My commission expires: ....]

History: 2009 a. 319; 2019 a. 125; 2023 a. 130.

**244.06 Validity of power of attorney. (1)** A power of attorney executed in this state on or after September 1, 2010, is valid if its execution complies with s. 244.05.

**(2)** A power of attorney executed in this state before September 1, 2010, 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 outside this state is valid in this state if, when the power of attorney was executed, the execution complied with one of the following:

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

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

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

History: 2009 a. 319.

**244.07 Meaning and effect of power of attorney. (1)** 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 in the power of attorney, by the law of the jurisdiction in which the power of attorney was executed.

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

**History:** 2009 a. 319.

#### 244.08 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.

(2) If, after a principal executes a power of attorney, a court appoints a conservator or 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.

**History:** 2009 a. 319.

**244.09 When a power of attorney is 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 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 so 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 one of the following:

(a) A physician licensed under ch. 448 or a psychologist who is licensed under ch. 455, who is exercising the temporary authorization to practice, as defined in s. 455.50 (2) (o), in this state, or who is practicing under the authority to practice interjurisdictional telepsychology, as defined in s. 455.50 (2) (b), that the principal is incapacitated within the meaning of s. 244.02 (7) (a).

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

(c) 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 under 42 USC 1320d, the Health Insurance Portability and Accountability Act, and applicable regulations, to obtain access to the principal's health-care information and communicate with the principal's health care provider.

**History:** 2009 a. 319; 2021 a. 131.

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

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

(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 any of the following occurs:

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

(3) Unless the power of attorney otherwise provides, an agent's authority is exercisable until the authority terminates under sub. (2), 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.

**History:** 2009 a. 319.

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

(2) A principal may designate in a power of attorney 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 is subject to all of the following:

- (a) Has the same authority as that granted to the original agent.
- (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 sub. (4), an agent who 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 who 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 other action reasonably appropriate in the circumstances to safeguard the principal's best interest. An agent who fails to 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 other action.

History: 2009 a. 319.

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

History: 2009 a. 319.

**244.13 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.

History: 2009 a. 319.

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

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

(b) Act in good faith.

(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 who has accepted an appointment shall do all of the following:

(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, if those expectations are not known, act in the principal's best interest.

(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 all of the following:

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

(3) An agent who 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 who 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 who 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 one of the following:

(a) The principal.

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

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

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

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

History: 2009 a. 319.

Misunderstanding POAs: Advocating for Your Client's Statutory Autonomy. Resch [nka Juel] & Bennett. Wis. Law. Feb. 2020.

The Face of Elder Financial Exploitation. Johnson, Fioretti, & Trecartin. Wis. Law. Mar. 2020.

**244.15 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 that the provision does any of the following:

(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.

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

History: 2009 a. 319.

**244.16 Judicial relief.** (1) The following persons may petition the circuit court of the county where the principal is present or of the county of the principal's legal residence 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) The principal's domestic partner.

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

(g) 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.

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

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

(j) 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.

**History:** 2009 a. 319.

The relief granted under sub. (1) must fit the purpose of the action; it is not a broad invitation to the court to wade into the private attorney-client arrangements of the parties unless it is within the realm of construing a power of attorney or reviewing the conduct of an agent. The circuit court exceeded its authority under sub. (1) because the court's order limiting attorneys' fees was not aimed at remedying the attorney-in-fact's actions as attorney-in-fact. *Kelly v. Brown*, 2016 WI App 31, 368 Wis.2d 353, 879 N.W.2d 127, 15-0777.

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

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

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

**History:** 2009 a. 319.

**244.18 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, to any of the following:

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

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

(a) The principal's caregiver.

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

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

**History:** 2009 a. 319.

**244.19 Protection of persons that accept and rely upon an acknowledged power of attorney.** (1) For purposes of this section and s. 244.20, "acknowledged" means the taking of an acknowledgment before a notarial officer authorized to take acknowledgements under ch. 140.

(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 s. 244.05 that the signature is genuine.

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

1. That the power of attorney is void, invalid, or terminated.
2. That the purported agent's authority is void, invalid, or terminated.
3. That the agent is exceeding or improperly exercising the agent's authority.

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

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

(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.

(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.

(6) For purposes of this section, 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.

**History:** 2009 a. 319; 2019 a. 125.

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

(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 or state 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 of attorney.

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

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

(f) The person makes, or has actual knowledge that another person has made, a report to the designated adult at risk or elder adult at risk agency, or to a law enforcement agency, 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.

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

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

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

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

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

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

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

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

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

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

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

(5) If a person refuses to accept an acknowledged power of attorney in violation of this section, the person requesting the acceptance may request that a court order all of the following:

(a) Acceptance of the power of attorney.

(b) In any action or proceeding that confirms the validity of the power of attorney or mandates acceptance of the power of attorney, payment of reasonable attorney fees, notwithstanding s. 814.04 (1), and costs by the person who refuses to accept the power of attorney.

(6) If a court determines that a proceeding to mandate acceptance of an acknowledged power of attorney was brought other than in good faith, the court may award reasonable attorney fees and costs to the prevailing party.

History: 2009 a. 319.

**244.21 Laws applicable to financial institutions and entities.** This chapter does not supersede any other law applicable to financial institutions or insurance companies, and the other law controls if in conflict with this chapter.

History: 2009 a. 319.

## SUBCHAPTER II

### AUTHORITY

**244.41 Authority that requires specific grant, grant of general authority.** (1) An agent under a power of attorney may do any of 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 the exercise of that 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.

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

(h) Disclaim property, including a power of appointment.

(i) Access the content of an electronic communication, as defined in s. 711.03 (6), sent or received by the principal.

(2) Notwithstanding a grant of authority to do an act described in sub. (1), unless the power of attorney otherwise provides, an agent who is not a spouse or domestic partner of the principal, may not do any of the following:

(a) Exercise authority under a power of attorney to create in the agent an interest in the principal's property, whether by gift, right of survivorship, beneficiary designation, disclaimer, or otherwise.

(b) Exercise authority under a power of attorney to create 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 subs. (1), (2), (4), and (5), if a power of attorney grants to an agent the authority to do all acts that a principal could do, the agent has the general authority described in ss. 244.44 to 244.56.

(4) Unless the power of attorney otherwise provides, a grant of authority to make a gift is subject to s. 244.57.

(5) Subject to subs. (1), (2), and (4), 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.

History: 2009 a. 319; 2015 a. 300.

The Face of Elder Financial Exploitation. Johnson, Fioretti, & Trecartin. Wis. Law. Mar. 2020.

**244.42 Incorporation of authority.** (1) An agent has the authority described in this subchapter if the power of attorney refers to general authority as indicated by section titles for ss. 244.44 to 244.56 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 ss. 244.44 to 244.56 or a citation to any of ss. 244.44 to 244.56 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.

History: 2009 a. 319.

**244.43 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 ss. 244.44 to 244.56 or that grants to an agent authority to do all acts that a principal could do under s. 244.41 (3), a principal authorizes the agent, with respect to that subject, to do all of the following:

(1) Demand, receive, and obtain by any lawful means, 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 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 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, rule, 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 by any means.

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

History: 2009 a. 319.

**244.44 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 do all of the following:

(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; quit claim; 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 any lawful means a mortgage, deed of trust, conditional sale contract, encumbrance, lien, or other claim to real property which 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 by doing any of the following:

(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 taxes or assessments.

(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, hold, and act with respect to stocks and bonds or other property received in a plan of reorganization, including by doing any of the following:

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

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

(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.

(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.

History: 2009 a. 319.

**244.445 Digital property.** Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to digital property authorizes the agent, subject to s. 711.06 (1), to do all of the following:

(1) Find, access, manage, protect, distribute, dispose of, transfer, transfer ownership rights in, or otherwise control digital devices, and any digital property stored thereon, with digital devices to include desktops, laptops, tablets, peripherals, storage devices, mobile telephones, smartphones, and any similar digital device, either currently in existence or that may exist as technology develops.

(2) Access, manage, distribute, delete, terminate, transfer, transfer ownership rights in, or otherwise control digital accounts, other than the content of electronic communications, as defined in s. 711.03 (6), with digital accounts to include bank or other financial institution accounts, electronic mail accounts, blogs, software licenses, social network accounts, social media accounts, file-sharing and storage accounts, financial management accounts, domain registration accounts, domain name service accounts, Web hosting accounts, tax preparation service accounts, online store accounts, and affiliated programs currently in existence or that may exist as technology develops.

(3) Access, manage, distribute, delete, transfer, transfer ownership rights in, or otherwise control any digital property the principal may own or otherwise possess rights to, other than the content of electronic communications, as defined in s. 711.03 (6), regardless of the ownership of the digital device on which the digital property is stored or the ownership of the digital account within which the digital property is stored.

History: 2015 a. 300; 2017 a. 365.

**244.45 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 do all of the following:

(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; quit claim; 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 by doing any of the following:

(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 under a gratuitous bailment.
- (f) Using and making repairs, alterations, or improvements to the property.
- (6) Change the form of title of an interest in tangible personal property.

History: 2009 a. 319.

**244.46 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 do all of the following:

- (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.
- (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.
- (6) 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.
- (7) 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.

History: 2009 a. 319.

**244.47 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 do all of the following:

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

History: 2009 a. 319.

**244.48 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 do all of the following:

- (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.

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

History: 2009 a. 319.

**244.49 Operation of entity or business.** Subject to the terms of a document or an agreement governing an entity or business or an entity or business 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 do all of the following:

(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, do all of the following:

(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 all of the following:

- 1. The location of its operation.
- 2. The nature and extent of its business.
- 3. The methods of manufacturing, selling, merchandising, financing, accounting, and advertising employed in its operation.
- 4. The amount and types of insurance carried.
- 5. 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.

(d) Demand and receive money due or claimed by the principal.

pal 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, interest exchange, 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.

(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.

History: 2009 a. 319; 2015 a. 295.

**244.50 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 do all of the following:

(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 which 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 or domestic partner, 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, rule, 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.

(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 insur-

ance or annuity or its proceeds or liability accruing by reason of the tax or assessment.

History: 2009 a. 319.

**244.51 Estates, trusts, and other beneficial interests.**

(1) In this section, "estates, trusts, and other beneficial interests" means a trust, probate estate, guardianship, conservatorship, es-crow, 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 do all of the following:

(a) Accept, receive, receipt for, sell, assign, pledge, or exchange a share in or payment from an estate, trust, or beneficial interest.

(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 an estate, trust, or beneficial interest, 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.

(h) Sign a waiver or consent in a probate matter.

(i) Reject, renounce, disclaim, release, or consent to a reduction in or modification of a share in or payment from an estate, trust, or beneficial interest.

History: 2009 a. 319.

**244.52 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 do all of the following:

(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 any 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.

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

History: 2009 a. 319.

**244.53 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 do all of the following:

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

1. The principal's children.
2. Other individuals legally entitled to be supported by the principal.
3. 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 par. (a) by doing any of the following:

1. Purchasing, leasing, or entering into a contract.
2. 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 par. (a).

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

(f) Act as the principal's personal representative under 42 USC 1320d, the Health Insurance Portability and Accountability Act, 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 motor vehicles or other means of transportation, including registering, licensing, insuring, and replacing the vehicles, for the individuals described in par. (a).

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

(i) Continue payments incidental to the membership or affili-

ation 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.

History: 2009 a. 319.

**244.54 Benefits from governmental programs or civil or military service.** (1) In this section, "benefits from governmental programs or civil or military service" means any benefit, program or assistance provided under a statute, rule, 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 do all of the following:

(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 s. 244.53 (1) (a), 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, rule, 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, rule, or regulation.

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

History: 2009 a. 319.

**244.55 Retirement plans.** (1) In 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 the following plans or accounts:

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

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

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

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

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

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

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

(2) Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with re-

spect to retirement plans authorizes the agent to do all of the following:

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

History: 2009 a. 319.

**244.56 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 do all of the following:

(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, 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 25 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.

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

History: 2009 a. 319; 2017 a. 365 s. 111.

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

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

(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, 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 under section 2513 of the Internal Revenue Code, in an amount per donee not to exceed twice the annual federal gift tax exclusion limit.

(b) Consent, under section 2513 of the Internal Revenue Code, 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.

(c) 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 all of the following:

1. The value and nature of the principal's property.

2. The principal's foreseeable obligations and need for maintenance.

3. Minimization of taxes, including income, estate, inheritance, generation skipping transfer, and gift taxes.

4. Eligibility for a benefit, a program, or assistance under a statute, rule, or regulation.

5. The principal's personal history of making or joining in making gifts.

History: 2009 a. 319.

**244.61 Statutory Form Power of Attorney for Finances and Property.** 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. An appendix shall be attached to this form that includes the text of ss. 244.44 to 244.56. The appendix is for definitions only. The agent has powers only regarding the subjects initialed on the form.

#### WISCONSIN STATUTORY FORM POWER OF ATTORNEY FOR FINANCES AND PROPERTY 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 FOR FINANCES AND PROPERTY ACT IN CHAPTER 244 OF THE WISCONSIN STATUTES.

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 2ND SUCCESSOR AGENT.

THIS POWER OF ATTORNEY BECOMES EFFECTIVE IMMEDIATELY UNLESS YOU STATE OTHERWISE IN THE SPECIAL INSTRUCTIONS. THIS POWER OF ATTORNEY DOES NOT REVOKE ANY POWER OF ATTORNEY EXECUTED PREVIOUSLY UNLESS YOU SO PROVIDE IN THE SPECIAL INSTRUCTIONS.

IF YOU REVOKE THIS POWER OF ATTORNEY, YOU SHOULD NOTIFY YOUR AGENT AND ANY OTHER PERSON TO WHOM YOU HAVE GIVEN A COPY. IF YOUR AGENT IS YOUR SPOUSE OR DOMESTIC PARTNER AND



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Database**

YOUR MARRIAGE IS ANNULLED OR YOU ARE DIVORCED OR LEGALLY SEPARATED OR THE DOMESTIC PARTNERSHIP IS TERMINATED AFTER SIGNING THIS DOCUMENT, THE DOCUMENT IS INVALID.

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 of principal) name the following person as my agent:

Name of agent: ....

Agent's address: ....

Agent's telephone number: ....

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

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

Name of successor agent: ....

Successor agent's address: ....

Successor agent's telephone number: ....

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

Name of 2nd 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 for Finances and Property Act in chapter 244 of the Wisconsin statutes:

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

.... Real property

.... Tangible personal property

.... Digital 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

**LIMITATION ON AGENT'S AUTHORITY**

An agent who is not my spouse or domestic partner 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 in the following space ....

**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

**UNIFORM POWER OF ATTORNEY**

**244.61**

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 FOR FINANCES AND PROPERTY**

Any person, including my agent, may rely upon the validity of this power of attorney or a copy of it unless that person knows that the power of attorney has been 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 DO ALL OF THE FOLLOWING:

**(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.**

**(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 DO ALL OF THE FOLLOWING:

**(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 AU-**

THORITY 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.

(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 ALL OF THE FOLLOWING:

(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.

(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.

(6) IF YOU ARE THE PRINCIPAL'S DOMESTIC PARTNER AND YOUR DOMESTIC PARTNERSHIP IS TERMINATED, 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 FOR FINANCES AND PROPERTY ACT IN CHAPTER 244 OF THE WISCONSIN STATUTES. IF YOU VIOLATE THE UNIFORM POWER OF ATTORNEY FOR FINANCES AND PROPERTY ACT IN CHAPTER 244 OF THE WISCONSIN STATUTES 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.

#### OPTIONAL SIGNATURE OF AGENT

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

Agent's signature .... Date ....

(APPENDIX FOLLOWS)

History: 2009 a. 319; 2011 a. 260 s. 81; 2015 a. 300.

Offering Clarity and Guidance: New Uniform Power of Attorney for Finances and Property. Collins, Hatch, & Wilcox. Wis. Law. June 2010.

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

#### AGENT'S CERTIFICATION AS TO THE VALIDITY OF POWER OF ATTORNEY FOR FINANCES AND PROPERTY 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.

(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: ....

History: 2009 a. 319.

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

History: 2009 a. 319.

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

History: 2009 a. 319.