WEST VIRGINIA CODE CHAPTER 39B ARTICLE 3

WV Legislature

§39B-3-101. Statutory form power of attorney.

A document substantially in the following form may be used to create a statutory form power of attorney that has the meaning and effect prescribed by this act.

State of West Virginia

STATUTORY FORM POWER OF ATTORNEY

IMPORTANT INFORMATION

This power of attorney authorizes another person (your agent) to make decisions concerning your property for you (the principal). Your agent will be able to make decisions and act with respect to your property (including your money) whether or not you are able to act for yourself. The meaning of authority over subjects listed on this form is explained in the Uniform Power of Attorney Act, §39B-1-101 et seq. of this code.

This power of attorney does not authorize the agent to make health care decisions for you.

You should select someone you trust to serve as your agent. Unless you specify otherwise, generally the agent's authority will continue until you die or revoke the power of attorney or the agent resigns or is unable to act for you.

Your agent is entitled to reasonable compensation unless you state otherwise in the special instructions. This form provides for designation of one agent. If you wish to name more than one agent you may name a coagent in the Special Instructions. Coagents are not required to act together unless you include that requirement in the Special Instructions. If your agent is unable or unwilling to act for you, your power of attorney will end unless you have named a successor agent. You may also name a second successor agent.

This power of attorney becomes effective immediately unless you state otherwise in the Special Instructions.

If you have questions about the power of attorney or the authority you are granting to your agent, you should seek legal advice before signing this form.

DESIGNATION OF AGENT

I _____ name the following person as my agent:

(Name of Principal)

Name of Agent:_____

Agent's Address:_____

WVLegislature

Agent's Telephone Number:_____

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

Name of Successor Agent:_____

Successor Agent's Address:_____

Successor Agent's Telephone Number:_____

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

Name of Second Successor Agent:_____

Second Successor Agent's Address:_____

Second Successor Agent's Telephone Number:_____

GRANT OF GENERAL AUTHORITY

I grant my agent and any successor agent general authority to act for me with respect to the following subjects as defined in the Uniform Power of Attorney Act, §39B-1-101 et seq. of this code:

(INITIAL each subject you want to include in the agent's general authority. If you wish to grant general authority over all of the subjects you may initial "All Preceding Subjects" instead of initialing each subject.)

(___) Real Property

(___) Tangible Personal Property

(___) Stocks and Bonds

(___) Commodities and Options

(___) Banks and Other Financial Institutions

(___) Operation of Entity or Business

(___) Insurance and Annuities

(___) Estates, Trusts, and Other Beneficial Interests

(___) Claims and Litigation

WV Legislature

(___) Personal and Family Maintenance

(___) Benefits from Governmental Programs or Civil or Military Service

(___) Retirement Plans

(___) Taxes

(___) All Preceding Subjects

GRANT OF SPECIFIC AUTHORITY (OPTIONAL)

My agent MAY NOT do any of the following specific acts for me UNLESS I have INITIALED the specific authority listed below:

(CAUTION: Granting any of the following will give your agent the authority to take actions that could significantly reduce your property or change how your property is distributed at your death. INITIAL ONLY the specific authority you WANT to give your agent.)

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

(___) Make a gift, subject to the limitations of the West Virginia Uniform Power of Attorney Act and any special instructions in this power of attorney

(___) Create or change rights of survivorship

(___) Create or change a beneficiary designation

(___) Authorize another person to exercise the authority granted under this power of attorney

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

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

(___) Disclaim or refuse an interest in property, including a power of appointment

(___) Access the content of electronic communications

LIMITATION ON AGENT'S AUTHORITY

An agent that is not my ancestor, spouse, or descendant MAY NOT use my property to benefit the agent or a person to whom the agent owes an obligation of support unless I have included that authority in the Special Instructions.

WV Legislature

SPECIAL INSTRUCTIONS (OPTIONAL)

You may give special instructions on the following lines:

_____

_____

_____

_____

_____

EFFECTIVE DATE

This power of attorney is effective immediately unless I have stated otherwise in the special instructions.

NOMINATION OF [CONSERVATOR OR GUARDIAN] (OPTIONAL)

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

Name of Nominee for [conservator or guardian] of my estate:

_____

Nominee's Address:_____

Nominee's Telephone Number:_____

Name of Nominee for [guardian] of my person:_____

Nominee's Address:_____

Nominee's Telephone Number:_____

RELIANCE ON THIS POWER OF ATTORNEY

Any person, including my agent, may rely upon the validity of this power of attorney or a copy of it unless that person knows it has terminated or is invalid. Unless expressly stated otherwise, this power of attorney is durable and shall remain valid if I become incapacitated.

SIGNATURE AND ACKNOWLEDGMENT

_____

Your Signature_____Date_____

WV Legislature

Your Name Printed_____

Your Address_____

Your Telephone Number_____

State of _____

[County] of_____

This document was acknowledged before me on _____,

(Date)

by_____.

(Name of Principal)

_____(Seal, if any)

Signature of Notary

My commission expires: _____

[This document prepared by:_____]

IMPORTANT INFORMATION FOR AGENT

Agent's Duties

When you accept the authority granted under this power of attorney, a special legal relationship is created between you and the principal. This relationship imposes upon you legal duties that continue until you resign or the power of attorney is terminated or revoked. You must:

(1) Do what you know the principal reasonably expects you to do with the principal's property or, if you do not know the principal's expectations, act in the principal's best interest; act in good faith;

(2) Do nothing beyond the authority granted in this power of attorney; and

(3) 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:

_____by_____

WV Legislature

(Principal's Name) (Your Signature) as Agent

Unless the special instructions in this power of attorney state otherwise, you must also:

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

(2) Avoid conflicts that would impair your ability to act in the principal's best interest;

(3) Act with care, competence, and diligence;

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

(5) Cooperate with any person that has authority to make health care decisions for the principal to do what you know the principal reasonably expects or, if you do not know the principal's expectations, to act in the principal's best interest; and attempt to preserve the principal's estate plan if you know the plan and preserving the plan is consistent with the principal's best interest.

Termination of Agent's Authority

You must stop acting on behalf of the principal if you learn of any event that terminates this power of attorney or your authority under this power of attorney. Events that terminate a power of attorney or your authority to act under a power of attorney include:

(1) Death of the principal;

(2) The principal's revocation of the power of attorney or your authority;

(3) The occurrence of a termination event stated in the power of attorney;

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

(5) If you are married to the principal, a legal action is filed with a court to end your marriage or for your legal separation, unless the Special Instructions in this power of attorney state that such an action will not terminate your authority.

Liability of Agent

The meaning of the authority granted to you is defined in the Uniform Power of Attorney Act, §39B-1-101 et seq. of this code. If you violate the Uniform Power of Attorney Act, as set forth in §39B-1-101 et seq. of this code, 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.

WV Legislature

§39B-3-102. Agent's certification

The following optional form may be used by an agent to certify facts concerning a power of attorney:

AGENT'S CERTIFICATION AS TO THE VALIDITY OF POWER OF ATTORNEY AND AGENT'S AUTHORITY

State of _____

[County] of_____]

I, _____ (Name of Agent), [certify] under penalty of perjury that _____(Name of Principal) granted me authority as an agent or successor agent in a power of attorney dated _____.

I, further [certify] that to my knowledge:

(1) The Principal is alive and has not revoked the power of attorney or my authority to act under the power of attorney and the power of attorney and my authority to act under the power of attorney have not terminated;

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

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

_____

_____

_____ (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 _____,

WV Legislature

(Date)

by _____.

(Name of Agent)

_____

Signature of Notary

(Seal, if any)

My commission expires: _____

[This document prepared by:_____]

WV Legislature