

Selected Issues in Power of Attorney Law

American Bar Association Commission on Law and Aging

April 9, 2020

This chart provides a state by state overview of a range of issues in Power of Attorney Law.

A Power of Attorney designates and authorizes an agent, sometimes known as the attorney in fact, to act on behalf of the principal – the person authorizing the agent to represent them. The authority granted to the agent is defined by the terms of the power of attorney document, or by state law. A power of attorney can delegate authority to take different kinds of actions. The most common kinds of powers of attorney give an agent the authority to act or make decisions regarding a person’s finances and property or healthcare.

This chart is a summary. Some language may have been rephrased for brevity or to ease understanding. It is important to read the underlying statute. State legislatures may amend laws after publication of this chart. To ensure accuracy, check the current statute. Please note that the links to public sources may not be official sources for citation.

Chart Definitions

State/Citation/Date: The first column contains a citation to the law current as of the last update of this chart, and where possible, a public link to the statute.

Specific language for durability: An individual must have capacity to delegate authority in a power of attorney. In a durable power of attorney, the principal retains capacity in the event the principal becomes incapacitated. The modern trend is to assume that financial powers of attorney are durable unless the document says otherwise. Some states still require specific statements in the document to create durability.

Execution: Some state statutes specify conditions that must occur, such as the signature of a notary or two or more witnesses, to validate the power of attorney. that must occur. The modern trend, and arguably best practice if state law is silent on the issue, is to require witnesses and or notarization.

What is the agent called: Many state statutes have a statutory term for the person named in the document to act on behalf of another person, such as agent or attorney in fact.

Statutory form: Some state statutes contain a model form for a power of attorney document.

If yes opt in or opt out: In states with statutory power of attorney forms, some forms assume that all powers listed are granted unless the principal opts out of them, other states assume that only the powers opted into on the form are granted.

3rd Party Recognition: An emerging trend is for state statutes to require certain third parties to honor a power of attorney that meets enumerated requirements. Some laws allow for recovery of costs for failure to honor a valid power of attorney, unless certain defenses are proven.

Can Agent Delegate: Some state statutes address whether an agent can delegate their authority to another agent.

Fees for agent: In some states, an agent can charge a fee.

Mention of Health Care: Some state power of attorney statutes allow individuals to appoint a surrogate healthcare decision maker in a healthcare power of attorney.

Revocation requirement: Many state statutes define how a power of attorney can be revoked or terminated by the principal. Powers of attorney can also be terminated by court order.

Other: This category lists sections in state laws that seemed unique, useful or uncommon.



Selected Issues in Power of Attorney Law

State Citation Date	Specific Language for Durability	Execution	What is the Agent Called	Statutory Form	If Yes Opt in Or Opt Out	3 rd Party Recognition	Can Agent Delegate	Fees for Agent	Mention of Health Care	Revocation Requirement	Other
Alabama Ala. Code § 26-1-2 Jan. 1, 2012 Public link	Yes, “This power of attorney shall not be affected by disability, incompetency, or incapacity of the principal” or “This power of attorney shall become effective upon the disability, incompetency, or incapacity of the principal” or similar words.	No mention	Attorney in fact	No	N/A	No mention	No mention	No mention	Yes, “A principal may designate under a durable power of attorney an individual who shall be empowered to make health care decisions on behalf of the principal, in the matter set forth in the Natural Death Act, if in the opinion of the principal’s attending physician the principal is no longer able to give directions to health care providers.” See Ala. Code § 26-1-2(g).	“A durable power of attorney executed pursuant to this section may be revoked by written revocation signed and dated by the principal or person acting at the direction of the principal, or being obliterated, burnt, torn, or otherwise destroyed or defaced in a manner indicating intention to cancel or by a verbal expression of intent to revoke made in presence of a witness 19 years of age or older who signs and dates a	No presumption is created in the intention of an individual if there is no mention (or there is ambiguity) in the advance directives or durable power of attorney to consent to (1) a particular health care matter, (2) to consent to the use or withdrawing of life-sustaining treatment or artificially provided nutrition and hydration. See Ala. Code § 26-1-2(g)(12).

Selected Issues in Power of Attorney Law

										writing confirming an expression to revoke.” <i>See</i> Ala. Code § 26-1-2(g)(1).	
<p>Alaska AS 13.26.350 January 1, 2017 Public link</p>	<p>Yes, “This power of attorney shall become effective upon the disability of the principal,” or “This power of attorney shall not be affected by the subsequent disability of the principal” or similar words.</p>	<p>Writing is required.</p>	<p>agent</p>	<p>Yes. May not be modified to relieve agent of liability if he/she breached their duty “dishonestly, with an improper motive, or with reckless indifference” or was inserted as a result of an abuse of their relationship with the principal. <i>See</i> 13.26.347(4).</p>	<p>Opt-in using the form. <i>See</i> AS 13.26.332. Note that “the principal must draw a line through the text of any category for which the principal does not desire to give the agent.” AS 13.26.</p>	<p>Yes, “A third party shall honor the terms of a properly executed statutory form power of attorney. A third party who fails to honor a properly executed statutory form power of attorney may be liable in a civil action...for a civil penalty.” AS 13.26.353(c).</p>	<p>No mention</p>	<p>No mention</p>	<p>Not in the general power of attorney section. There is a separate health care section. <i>See</i> AS 13.52.010 (covering advance health care directives). Agent must act as the principal’s personal representative for HIPAA for the provision of health care. <i>See</i> 13.26.344(j)</p>	<p>Revocation is available at any time. A person may revoke a specific power granted in the power of attorney by completing a special power. <i>See</i> AS 13.26.332. Applicability of provisions of statutory form power of attorney is found in AS 13.26.341.</p>	<p>Special section related to public home care providers. <i>See</i> AS 13.26.358. Various interpretations of provisions in statutory form power of attorney are in AS 13.26.344. Agent not given power to revoke, declare or modify a trust. <i>See</i> 13.26.344(a). Agent given power to control “credit and debit cards, electronic transaction authoriza-</p>

Selected Issues in Power of Attorney Law

					338(a)						est in business's, invest into business's which the principal has an interest, sell or liquidate principal's business. <i>See</i> 13.26.344(e)
--	--	--	--	--	--------	--	--	--	--	--	------------------------------------------------------------------------------------------------------------------------------------------------------

Selected Issues in Power of Attorney Law

<p>Arizona A.R.S. § 14-5501 2014 Public link</p>	<p>Yes, “This power of attorney is not affected by subsequent disability or incapacity of the principal or lapse of time” or “This power of attorney is effective on the disability or incapacity of the principal” or similar words</p>	<p>A writing is required with (1) language that clearly indicates the principal intends to create a power of attorney and clearly identifies the agent, (2) signed or marked by the principal or signed in the principal’s name by some other individual in the principal’s conscious presence and at the principal’s direction, (3) witnessed by a person other than the</p>	<p>Agent</p>	<p>Yes. <i>See</i> A.R.S. § 14-5501(D)(4) for the statutory form.</p>	<p>Opt-in. The statutory form does not provide a list of power granted.</p>	<p>No mention</p>	<p>No mention</p>	<p>No mention</p>	<p>Not in the general power of attorney section. There is a separate section for health care decisions found in Ariz. Rev. Stat. § 36-3221.</p>	<p>No mention</p>	<p>There are special provisions regarding vehicle title and registration activities. <i>See</i> A.R.S. § 28-370(B)(2). “A person whose license as a fiduciary has been suspended or revoked pursuant to § 14-5651 may not serve as an agent under a power of attorney in any capacity unless the person is related to the principal by blood,</p>
------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------	-----------------------------------------------------------------------	-----------------------------------------------------------------------------	-------------------	-------------------	-------------------	-------------------------------------------------------------------------------------------------------------------------------------------------	-------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Selected Issues in Power of Attorney Law

		agent, the agent's spouse, the agent's children or the notary public, (4) executed and attested by its acknowledgment by the principal and by an affidavit of the witness before a notary public and evidenced by the notary public's certificate, under official seal, in substantially the form provided in A.R.S. § 14-5501(D)(4).									adoption or marriage." A.R.S. § 14-5501(F).
Arkansas A.C.A. § 28-68-104 Jan. 1, 2012 Public link	Yes, "A power of attorney created under this chapter is durable unless it expressly provides that it is terminated by the incapacity of the principal."	"Power of attorney must be signed by the principal or in the principal's conscious presence by another individual directed by the principal to sign the	Agent	Yes. The statutory form power of attorney is located in A.C.A. § 28-68-301. There is also an optional form that may be used by an agent to certify	Opt-in. There is a list provided in the statutory form. An individual	No mention. However, the statutory form addresses that a third party is to act under it and revocation is not effective as to a third party until the third party learns	No. However, the principal can designate two or more persons to act as "co-agents." See A.C.A. § 28-68-111.	Yes, "Unless the power of attorney otherwise provides, an agent is entitled to reimbursement of expense	No, the section in this chapter specifically exempts the power to make health-care decisions. A.C.A. § 28-68-103 (2). The agent's duties listed in A.C.A. §	An agent may "re-sign" by giving notice to the principal or if the principal is incapacitated, there is a list of acceptable substitu-	Arkansas's Chapter 68 is called the "Uniform Power of Attorney Act." The subchapters provide all relevant provisions for power of attorney. There is a

Selected Issues in Power of Attorney Law

		principal's name on the power of attorney. A signature on a power of attorney is presumed to be genuine if the principal acknowledges the signature before a notary public or other individual authorized by law to take acknowledgments." A.C.A. § 28-68-105.		facts concerning a power of attorney in A.C.A. § 28-68-302.	must initial each subject he or she wishes to include in the agent's general authority. See A.C.A. § 28-68-301.	of the revocation.		reasonably incurred on behalf of the principal and to compensation that is reasonable under the circumstances." A.C.A. § 28-68-112.	28-68-114 also briefly mention health care decisions in subsection (b)(5).	tions depending on the circumstances in A.C.A. § 28-68-118.	special section on gifts in A.C.A. § 28-68-217 with notable mentions as being consistent with IRS codes and staying "consistent with the principal's objectives." See A.C.A. § 28-68-217(c).
California Cal. Prob. Code § 4124 1994 Public link	Yes, "This power of attorney shall not be affected by subsequent incapacity of the principal," or "This power of attorney shall become effective upon the incapacity of the principal," or similar words. Also note: the state lays out specific warning statements	Requirements for execution include: (1) date of execution, (2) signed by principal or principal's name by another adult in the principal's presence and at the principal's direction, (3) acknowledgment before	Attorney-in-fact	Yes, the statutory form can be found in Cal. Prob. Code § 4401. There is a PDF form provided.	Opt-in. There is a list provided where the principal can initial specific powers listed or can	Extensive relations with third parties are set out in Chapter 5 in Cal. Prob. Code § 4300-4310.	No mention	No mention	Health care decisions are covered by the Uniform Health Care Decisions Act. "A power of attorney for health care is legally sufficient if it satisfies the requirement of Section 4673." Cal. Prob.	Methods of revoking authority of attorney-in-fact are in Cal. Prob. Code §4153. Specific provisions apply to spouse designation located in Cal. Prob. Code §4154.	If a principal grants inconsistent authority to one or more powers of attorneys, the authority granted last controls to the extent of the inconsistency. Cal. Prob.

Selected Issues in Power of Attorney Law

	in Cal. Prob. Code § 4128 for durable power of attorney. There is extensive written language required in a printed form of durable power of attorney if the individual does not have legal counsel including that this language should be in “not less than 10-point bold-face type or reasonable equivalent thereof.”	a notary public or signed by at least two witnesses who satisfy the requirements of § 4122. <i>See</i> Cal. Prob. Code § 4121. Witness requirements are located in Cal. Prob. Code § 4122.			initial a catch-all and then cross out the powers not to be granted.				Code § 4680.	Revocation or amendment allowed at any time as long as principal is competent. <i>See</i> Cal. Prob. Code § 4128. In order to amend or change provisions in durable power of attorney, an individual must execute a new power of attorney or execute an amendment through the same formalities as the original. Liability incurred only when attorney-in-fact or third party is on notice.	Code § 4130.
Colorado C.R.S. § 15-14-704 Apr. 9, 2009 Public link	Yes, “a power of attorney created on or after January	“Power of attorney must be signed by the principal	Attorney-in-fact or Agent	Yes, the statutory form is provided in C.R.S. § 15-14-741.	Opt-in. There is a list	No mention explicitly. However, liability for re-	No mention	Yes, “[u]nless the power of attorney	Medical durable power of attorney is found in a separate	No mention	

Selected Issues in Power of Attorney Law

	1, 2010, is durable unless it expressly provides that it is terminate by the incapacity of the principal.” Prior to this date, power of attorney is only durable with the following text: “This power of attorney shall not be affected by disability of the principal.” Or “This power of attorney shall become effective upon the disability of the principal,” or similar words.	or in the principal’s conscious presence by another individual directed by the principal to sign the principal’s name on the power of attorney. A signature on a power of attorney is presumed to be genuine if the principal acknowledges the signature before a notary public or other individual authorized by law to take acknowledgments.” C.R.S. § 15-14-705.			provided where the principal can initial specific powers listed or can initial a catch-all for all power to be granted.	fusal to accept acknowledge power of attorney which involves third parties is located in C.R.S. § 15-14-720.		otherwise provides, an agent is entitled to reimbursement of expenses reasonably incurred on behalf of the principal and to compensation that is reasonable under the circumstances. C.R.S. § 15-14-712.	provision in C.R.S. § 15-14-506.		
Connecticut Conn. Gen. Stat. § 47a-562 July 1, 2016 Public link	No, “A power of attorney created under sections 1 to 45, inclusive, of this act is durable unless it expressly provides that it is	“A power of attorney must be dated and signed by the principal or in the principal’s conscious presence by	Agent	Yes, the statutory form can be found in Sec. 41. There is also a form for an affidavit that power of attorney is in full force and	Opt-out. The principal must strike out and initial	Third parties may face liability for refusing to honor a power of attorney.	Yes, “An agent that exercises authority to delegate to another person the authority	“Unless the power of attorney otherwise provides, an agent is entitled	Health care power of attorney is located in a separate statute but there are some provi-	“Termination of an agent’s authority or of a power of attorney is not effective as to the agent	

Selected Issues in Power of Attorney Law

	terminated by the incapacity of the principal.”	another individual directed by the principal to sign the principal's name on the power of attorney and witnessed by two witnesses. A signature on a power of attorney is presumed to be genuine if the principal acknowledges the signature before a notary public, a commissioner of the Superior Court or other individual authorized by law to take acknowledgments.”		effect in subsection (e).	each box of the subdivisions to which the principal does not desire to give the agent 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.” Sec. 14(g).	to reimbursement of expenses reasonably incurred on behalf of the principal and to compensation that is reasonable under the circumstances.” Sec. 12.	sions relating to health care throughout the Uniform Power of Attorney Act.	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.”	
D.C. Code § 21-2102 Apr. 12, 2000 Public link	Yes, “This power of attorney will continue to be effective if I become disabled, incapacitated,	No mention. However, D.C. Code § 21-2104 to 2116 are provision regarding the construction of	Agent	Yes, the statutory form is found in D.C. Code § 21-2101 .	Opt-in. There is a list of powers that the	No mention	No mention	The principal is granted the authority “except as limited	The healthcare provision can be found in D.C. Code § 21-2201 to 2213. Note	No mention	The D.C. Code has separate provision for specific powers granted by powers of

Selected Issues in Power of Attorney Law

	tated, or incompetent,” or similar words	specific powers that contain some execution instructions.			principal must initial in front in order to grant that power.			or extended,” to “Reimburse the agent for expenditures properly made by the agent in exercising the powers granted by the power of attorney.” D.C. Code § 21-2103(9).	that instructions for a MOST form are located in D.C. § 21-2221.02.		attorney such as The general powers granted can be found in D.C. Code § 21-2103.
Delaware Del. Code. Ann. § 49A-104 Aug. 17, 2011 Public link	Yes, “This power of attorney shall not be affected by subsequent incapacity of the principal,” or “This power of attorney shall become effective upon the incapacity of the principal,” or similar words.	Must be in (1) In writing; (2) Signed by the principal or by another person subscribing the principal’s name in the principal’s presence and at the principal’s express direction; (3) Dated; (4) Signed in	Personal power of attorney or agent	Yes, the statutory form is available in Del. Code. Ann. § 49A-201.	Opt-in. The powers associated with each category must be initial-ized by the principal.	The statute specifically mentions that it does not authorize “a third party to prepare, execute, deliver, submit and/or ire a document or instrument with a government subdivision, agency or instrumentality or other third party.” <i>See</i>	The statute specifically mentions that it does not authorize a “proxy or delegation to exercise voting rights or management of rights.” <i>See</i> Del. Code Ann.	Yes, “An agent is entitled to reimbursement of expenses reasonably incurred on behalf of the principal. An agent shall not be entitled to	The statute specifically states that the power to make healthcare decisions is not granted in durable power of attorney. <i>See</i> Del. Code Ann. § 49A-103(a)(4). The healthcare decision provisions,	No mention	Authority that requires specific grant can be found in Del. Code Ann § 49A-201(b).

Selected Issues in Power of Attorney Law

		the presence of a notarial officers; (5) Signed in the presence of one adult witness who is neither: (a) related to the principal by blood, marriage, or adoption; or (b) entitled to any portion of the estate of the principal under the principal's then existing will or codicil or amendment thereto or trust instrument. Del. Code Ann. § 49-105(a).				Del. Code Ann. § 49A-103(a)(8).	§ 49A-103(a)(5).	compensation unless: (1) The personal power of attorney so provides; (2) The compensation is reasonable under the circumstances." Del. Code Ann. § 49A-112.	including advanced directions, can be found in Del. Code Ann. § 2501 including an option form in § 2505. Click here for the public link .		
Florida Fla. Stat. § 709.2104 Oct. 1, 2011 Public link	Yes, "This durable power of attorney is not terminated by subsequent incapacity of the principal except as provided by in chapter 709,	Qualifications and execution of the power of attorney are located in Fla. Stat. § 709.2105. The requirements for execution include (1) agent must	Agent or attorney in fact	No	N/A	No mention	"A principal may designate one or more successors to act if an agent resigns, dies, becomes in-	"(1) Unless the power of attorney otherwise provides, an agent is entitled to reimbursement of expenses	The healthcare provisions can be found at Fla. Stat. § 709.2112.	Revocation requirement is set out in Fla. Stat. § 709.2110. This provision requires that the principal revoke	Banks and other financial institutions have their own provisions found in Fla. Stat. § 709.2208.

Selected Issues in Power of Attorney Law

<p>Florida Statutes,” or similar words</p>	<p>be 18 years of age, or be a financial institution that has the power to conduct trust business in the state of Florida, (2) signed by the principal and by two subscribing witnesses and be acknowledged before a notary public with the principal present or as otherwise provided by in § 695.03, (3) in the event that the principal is unable to sign the power of attorney, a notary public before whom the principal’s oath and acknowledgment may sign the principal’s name. Fla.</p>					<p>capacitated, is not qualified to serve, or declines to serve. <i>See</i> Fla. Stat. § 709.2111.</p>	<p>reasonably incurred on behalf of the principal. (2) Unless the power of attorney otherwise provides, a qualified agent is entitled to compensation that is reasonable under the circumstances. (3) Notwithstanding any provision in the power of attorney, an agent may not be paid compensation unless the agent is a qualified</p>		<p>by expressing the revocation in a subsequently executed power of attorney or other writing signed by the principal.</p>	
--------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--	--	--	--	--------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--	----------------------------------------------------------------------------------------------------------------------------	--

Selected Issues in Power of Attorney Law

		Stat. § 709.2105.						agent.” Fla. Stat. § 765.205.			
<p>Georgia O.C.G.A. § 10-6B-1 2017 Public link</p>	<p>A power of attorney created under this chapter shall be durable unless it expressly provides that it is terminated by the incapacity of the principal. O.C.G.A. § 10-6B-4.</p>	<p>Must be signed by the principal or by another individual in the principal’s presence with their express direction, witnessed by a competent person who is not also the agent, attested as set forth in 44-2-15. O.C.G.A. § 10-6B-5. Powers of attorney from other states are valid if they comply with 10-6B-7 or 10 U.S.C. Section 1044b. A photocopy or electronic copy of original power of attorney will have the same effect</p>	<p>Agent</p>	<p>Yes, found in O.C.G.A. § 10-6B-70.</p>	<p>Opt-in</p>	<p>No mention</p>	<p>A principal may designate two or more persons as coagents, who shall exercise their authority independently unless the power of attorney otherwise provides. A principal may designate successor agents. Successor agents do not act until all predecessors have resigned, become incapacitated, declined to serve, died or are no longer</p>	<p>No compensation unless the power of attorney otherwise provides. Agent is entitled to reasonable reimbursement of expenses incurred in performing acts required by the principal.</p>	<p>Agents have a responsibility to cooperate with a person that has authority to make health care decisions for the principal. O.C.G.A. § 10-6B-14(b)(5). Statutory form does not mention health care. O.C.G.A. § 10-6B-70.</p>	<p>Power of attorney revoked if principal becomes incapacitated and the power of attorney is not durable; if the principal revokes the power of attorney, the agent’s marriage to the principal is annulled, dissolved or legally separated. O.C.G.A. § 10-6B-10.</p>	

Selected Issues in Power of Attorney Law

		as the original, except when provided elsewhere, or in connection with conveyance of real property, where it must comply with Part 1 of Article 1 of Chapter 2 of Title 44. U.S.G.A. §10-6B-5.					qualified to serve. An agent who has actual knowledge of a breach or imminent breach of fiduciary duty by another agent shall notify the principal or take actions to safeguard the principal's best interest if the principal is incapacitated.				
Hawaii H.R.S. § 551E-3 April 17, 2014 Public link	No, "A power of attorney created under this chapter shall be durable unless it expressly provides that it is terminated by the incapacity of the principal." H.R.S. § 551E-3(a).	No mention except effective date provision found at H.R.S. § 551E-5.	Agent	Yes, the statutory form can be found in H.R.S. § 551E-51 or by clicking here .	Opt-in. The list in the form requires a principal to initial each subject he or she	No mention	No mention	"Unless the power of attorney otherwise provides, an agent shall be entitled to reimbursement of expenses reasona-	Both the general provision (H.R.S. § 551E-2) and the statutory form provision specific state that it "does not authorize the agent to make health care decisions." The	No mention	Some powers must be expressly granted to the agent in the power of attorney such as gift. <i>See</i> H.R.S. § 551E-31(a). Furthermore, many spe-

Selected Issues in Power of Attorney Law

					wishes to include in the agent's general authority. The form also includes an optional area for grant of specific authority.			bly incurred on behalf of the principal and to compensation that is reasonable under the circumstances.” H.R.S. § 551E-8.	specific health care provisions can be found at § 327E-3(b).		cific powers have their own provisions under the Part II Authority provisions in § 55E-34 to § 551E-478.
Idaho Idaho Code § 15-12-104 2008 Public link	No. “A power of attorney created under this chapter is durable unless it expressly provides that it is terminated by incapacity of the principal.”	Execution of power of attorney is in Idaho Code § 15-12-105. The requirements include that the “power of attorney be signed by the principal or in the principal’s conscious presence by	Agent	Yes, the statutory form can be found at Idaho Code § 15-12-301.	Opt-in. The statutory form provides a list in which the principal must initial next to each	No mention	No mention	“Unless the power of attorney otherwise provides, an agent shall be entitled to reimbursement of expenses reasonably incurred on behalf of	Idaho Code § 39-4510(1).	Only revocation mentioned is that the agent’s authority terminates when “the principal revokes the authority.” <i>See</i> Idaho Code § 15-12-110(2)(a).	Some powers must be expressly granted to the agent in the power of attorney such as gift. <i>See</i> Idaho Code § 15-12-201. Furthermore, many specific powers have their own

Selected Issues in Power of Attorney Law

		another individual directed by the principal to sign the principal's name on the power of attorney including as set forth in section 73-114, Idaho Code." The signature is presumed to be genuine if the principal acknowledges the signature before a notary public or other individual authorized to take such acknowledgments, including as set forth in section 51-109(6) Idaho Code.			subject he or she wishes to include in the agent's authority. This list is followed by an optional list of specific authority the principal may include.			the principal and to compensation that is reasonable under the circumstances." Idaho Code § 15-12-112.			provisions under the Part II Authority provisions in § 15-12-204 (real property) to § 15-12-217 (gift).
Illinois 755 Ill. Comp. Stat. § 45/2-6 July 27, 2015 Public link	No. A power of attorney created until this chapter is automatically durable.	No mention	Agent	Yes, the statutory short form power of attorney for property can be found at 755 Ill.	Opt-out. The principal must strike out	No mention	No mention	No mention	Power of attorney for healthcare has a separate section found in 755 Ill Comp.	The statute mentions that the principal may specify "the mode of	There are specification requirement for co-agents in 755 Ill.

Selected Issues in Power of Attorney Law

				<p>Comp. Stat. § 45/3-3.</p>	<p>any of the categories of powers he or she does not want the agent to have. To strike out, the principal must draw a line through that category.</p>				<p>Stat. § 45/4-1 or click here. The statutory short form power of attorney for health care is provided in 755 Ill. Comp. Stat. § 45/4-10.</p>	<p>revocation” applicable to the agent or all personal dealing with the agent. <i>See</i> 755 Ill. Comp. Stat. § 45/2-4(a). Also, note that a subsequent 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.” <i>See</i> 755 Ill.</p>	<p>Comp. Stat. § 45/2-10.5. There is a specific provision aimed at preventing older adult financial abuse in requiring an agent to keep a record of all receipts, disbursements, and significant actions taken under the authority of the agency in 755 Ill. Comp. Stat. § 45/2-7.</p>
--	--	--	--	------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------	--	--	--	----------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Selected Issues in Power of Attorney Law

										Comp. Stat. § 45/2-4.	
Indiana Ind. Code Ann. § 30-5-10-3 2009 Public link	No. “Except as otherwise state in the power of attorney, a power of attorney is not terminated by the incapacity of the principal. Ind. Code Ann. § 30-5-10-3(a).	“To be valid, a power of attorney must meet the following conditions: (1) Be in writing; (2) Name an attorney in fact; (3) Give the attorney in fact the power to act on behalf of the principal; (4) Be signed by the principal or at the principal’s direction in the presence of a notary public; (5) In the case of a power of attorney signed at the direction of the principal, the notary must state that the individual who signed the power of	Attorney in fact	No.	N/A	No mention	Yes, “language conferring general authority with respect to delegating authority means the principal authorizes the attorney in fact to delegate in writing to one (1) or more persons any or all powers given to the attorney in fact by the power of attorney. See Ind. Code Ann. § 30-5-5-18.	“(a) Except as otherwise stated in the power of attorney, an attorney in fact is entitled to reimbursement for all reasonable expenses advanced by the attorney in fact on behalf of the principal” and “an attorney in fact is entitled to a reasonable fee for services renders.” Ind. Code Ann. § 30-5-4-5.	Health care is mentioned throughout the power of attorney provisions. See Ind. Code § 30-5-5-16(b), 30-5-5-17, 30-5-6-5, 30-5-9-10, 30-5-7-1.	“Except as otherwise indicated in the power of attorney, an executed power of attorney may be revoked only by a written instrument of revocation that: (1) identifies the power of attorney revoked; and (2) is signed by the principal.” Ind. Code Ann. § 30-5-10-1.	The specific powers of the attorney in fact are in Ind. Code Ann. § 30-5-5-1 to § 30-5-5-19. Attorney in fact required to keep records for at least six years of all transactions, or until a new attorney in fact takes over. Ind. Code Ann. §30-5-6-4.

Selected Issues in Power of Attorney Law

attorney on

Selected Issues in Power of Attorney Law

		behalf of the principal did so at the principal's direction." Ind. Code Ann. § 30-5-4-1.									
<p>Iowa I.C.A. § 633B.104 July 1, 2014 Public link</p>	<p>No, "A power of attorney created under this chapter is durable unless the power of attorney expressly provides that it is terminated by the incapacity of the principal." I.C.A. § 633B.104</p>	<p>Power of attorney must be (1) signed by the principal or in the principal's conscious presence by another individual, other than any prospective agent, directed by the principal's name on the power of attorney; (2) acknowledged before a notary public or other individual authorized by law to take acknowledgments. Note: an agent named in the power of attorney</p>	<p>Attorney-in-fact or Agent</p>	<p>Yes, the statutory form can be found in I.C.A. § 633b.301. The optional Agent's Certification Form is available in I.C.A. § 633B.302.</p>	<p>Opt-in. The principal must initial each subject he or she wishes to include in the agent's general authority. There is also an option to grant general authority over all the subjects under</p>	<p>Yes, there are consequences in the provision for refusal to accept acknowledged power of attorney. A person is required to accept, request clarification, translation or an opinion of counsel within 7 business days after presentation of the power of attorney for acceptance. <i>See</i> I.C.A. § 633B.120.</p>	<p>Yes delegation of authority in the POA to another person is prohibited unless expressly authorized in the written power of attorney. <i>See</i> 633B.201.</p>	<p>"Unless the power of attorney otherwise provides, an agent who is an individual is entitled to reimbursement of expenses reasonably incurred on behalf of the principal but not to compensation. If a power of attorney does provide for compensation or if the agent is a bank or</p>	<p>No. The power of attorney explicitly does not grant a "power to make health care decisions." I.C.A. § 633B.103(2). Durable power of attorney for health care provisions can be found in § I.C.A. § 144B.2.</p>	<p>No mention</p>	<p>The principal may nominate a conservator for his/her property or guardianship of his/her person. When this takes effect, the power of attorney will be suspended. For more detail, <i>see</i> I.C.A. §633B.108.</p>

Selected Issues in Power of Attorney Law

		cannot notarize the principal's signature. <i>See</i> I.C.A. § 633B.105.			"All Preceding Subjects."			trust company authorized to administer trusts in Iowa, the compensation must be reasonable under the circumstances." § 633B.112			
Kansas K.S.A. § 58-652 April 4, 2017 Public link	Yes, for durability: "(1) The power of attorney is denominated a "durable power of attorney"; (2) the power of attorney includes a provision that states in substance one of the following: (A) "This is a durable power of attorney and the authority of my attorney in fact shall not terminate if I become disabled or in	"[P]ower of attorney signed the principal, and dated and acknowledged in the manner prescribed by K.S.A. 53-501 et seq. (this acknowledged manner refers to a notary official). <i>See</i> K.S.A. 58-652(a)(3).	Attorney in fact	No.	N/A	Yes, "the acts and transactions of an attorney in fact are binding on the principal and the principal's successors in interest in any situation in which a third person is entitled" and "no agreement shall limit or restrict the right of the principal to act with respect to the third person	Yes, if expressly authorized by the principal, "an attorney in fact or successor from time to time may revocably delegate any or all of the powers granted in a durable power of attorney to one or more qualified	Yes, "Subject to the provisions of the power of attorney and any separate agreement, an attorney in fact is entitled to reasonable compensation for services rendered to the principal	Durable power of attorney for health care decisions can be found in K.S.A. § 58-625.	"If a power of attorney is recorded any revocation of that power of attorney must be recorded in the same manner for the revocation to be effective. If a power of attorney is not recorded it may be revoked by a recorded revocation or in any	

Selected Issues in Power of Attorney Law

	the event of later uncertainty as to whether I am dead or alive”; or (B) “This is a durable power of attorney and the authority of my attorney in fact, when effective, shall not terminate or be void or voidable if I am or become disabled or in the event of later uncertainty as to whether I am dead or alive”; 58-652(a)(1)-(2).					through an attorney in fact appointed in a power of attorney.” K.S.A. § 58-659.	persons, subject to any directions or limitations of the principal expressed in the durable power of attorney, but the attorney in fact making the delegation shall remain responsible to the principal for the exercise or nonexercise of the powers delegated.” K.S.A. § 58-660.	as attorney in fact and reimbursement for reasonable expenses incurred as a result of acting as attorney in fact for the principal.” K.S.A. § 58-661.		other appropriate manner.” See K.S.A. § 58-652(c)(3).	
Kentucky K.R.S. 386.093 July 14, 2018	“A power of attorney created under this chapter is durable unless it expressly provides that it is terminated by the incapacity	Must be signed in the presence of two disinterested witnesses by the principal or in the principal’s conscious	Attorney in fact or agent	None	N/A	“A person that refuses in violation of this section to accept an acknowledged power of attorney is subject to:	Agent cannot delegate. Agent is required to take action if he/she has actual knowledg	Unless the power of attorney otherwise provides, an agent is entitled to reim-	Power of attorney does not include power to make health-care decisions unless the power of at-	“An agent’s authority terminates when: (a) The principal revokes the authority;	Gift of real estate must be specific

Selected Issues in Power of Attorney Law

<p>of the principal.” <i>See</i> KRS § 457.040.</p>	<p>presence by another individual directed by the principal to sign the principal’s name on the power of attorney. If signed in the principal’s conscious presence by another individual, the reason for this method of signing shall be stated in the power of attorney. (2) A signature on a power of attorney is presumed to be genuine if the principal acknowledges the signature before a notary public or other individual authorized by law to take acknowledgments.</p>				<p>(a) A court order mandating acceptance of the power of attorney; and (b) Liability for reasonable attorney’s fees and costs incurred in any action or proceeding that confirms the validity of the power of attorney or mandates acceptance of the power of attorney.” <i>See</i> KRS § 457.200.</p>	<p>e of an imminent or actual breach of fiduciary duty by another agent. For more info, <i>See</i> KRS § 457.110.</p>	<p>burse-ment of expenses reasonably incurred on behalf of the principal and to compensation that is reasonable under the circumstances. <i>See</i> KRS § 457.120.</p>	<p>torney provides otherwise. <i>See</i> KRS § 457.030.</p>	<p>(b) The agent dies, becomes incapacitated, or re-signs; (c) An action is filed for the dissolution or annulment of the agent’s marriage to the principal or their legal separation, unless the power of attorney otherwise provides; or (d) The power of attorney terminates” More info at KRS § 450.100.</p>	
-----------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--	--	--	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--

Selected Issues in Power of Attorney Law

		<i>See</i> KRS § 457.050.									
<p>Louisiana La. Civ. Code art 3026. Aug. 1, 2014 Public link</p>	<p>“In the absence of contrary agreement, neither the contract nor the authority of the mandatary is terminated by the principal’s incapacity, disability, or other condition that makes an express revocation of the mandate impossible or impractical.” La. Civ. Code art 3026.</p>	<p>No mention. “The contract of mandate is not required to be in any particular form. Nevertheless, when the law prescribes a certain form for an act, a mandate authorizing the act must be in that form.” La. Civ. Code art. 2993.</p>	<p>Mandate or mandatory. <i>See</i> La. Civ. Code art. 2989 (defining mandate).</p>	<p>No, the “contract of mandate is not required to be in any particular form. Nevertheless, when the law prescribes a certain form for an act, a mandate authorizing the act must be in that form.” La. Civ. Code art. 2993.</p>	<p>N/A</p>	<p>“A third person with whom a mandatary contracts in the name of the principal, or in his own name as mandatary, is bound to the principal for the performance of the contract.” La. Civ. Code art. 3022. Undisclosed mandate or principal and obligations of third party provisions can be found in La. Civ. Code art. 3023. Rights of the third persons after death of the principal are governed by La. Civ. Code art. 3033.</p>	<p>No mention.</p>	<p>“The principal is bound to reimburse the mandatary for the expenses and charges he has incurred and to pay him the remuneration to which he is entitled. The principal is bound to reimburse and repay the mandatary even though without the mandatary’s fault the purpose of the mandate was not accomplished.”</p>	<p>Health care power of attorney statute can be found at La. Rev. Stat. § 28:223. Preferences and/or instructions for making an advance direction for mental health treatment can be found at La. Rev. Stat. §28:222(A). Express authority is required for a mandate to “make health care decisions, such as surgery, medical expenses, nursing home residency, and medication. <i>See</i> La. Civ. Code art. 2997(6).</p>	<p>“The principal may terminate the mandate and the authority of the mandatary at any time. A mandate in the interest of the principal, and also the mandatory or a third party, may be irrevocable, if the parties so agree, for as long as they object of the contract may require.” La. Civ. Code art. 3025.</p>	<p>“The authority to alienate, acquire, encumber, or lease a thing must be given expressly. Neither the property nor its location need be specifically described.” La. Civ. Code art. 2996. Other acts which require express authority can be found in La. Civ. Code art. 2997. For termination of services by the mandatary, <i>See</i> La. C.C. Art. 3029.</p>

Selected Issues in Power of Attorney Law

								La. Civ. Code art. 3012. “The principal is bound to compensate for the loss the mandatory sustains as a result of the mandate, but not for loss caused by the fault of the mandatory.” La. Civ. Code art. 3013.			
<p>Maine Me. Rev. Stat. § 5-904 July 1, 2019 Public link</p>	<p>“A power of attorney created under this part is durable unless it expressly provides that it is terminated by the incapacity of the principal.” Me. Rev. Stat. § 5-904.</p>	<p>Must be signed by the principal or in the principal’s conscious presence by another individual directed by the principal to sign the principal’s name on the power of attorney,</p>	<p>Agent or attorney-in-fact</p>	<p>No, the power of attorney is only required to be “substantially” in the same form as found in Me. Rev. Stat. § 5-905(b). There is an option form in Me. Rev. Stat. § 5-951 for the</p>	<p>N/A</p>	<p>3rd parties are liable for refusal to accept acknowledged power of attorney. <i>See</i> Me. Rev. Stat. § 5-920.</p>	<p>N/A</p>	<p>“Unless the power of attorney otherwise provides, an agent is entitled to reimbursement of expenses reasonably incurred on</p>	<p>Agent does not have implied power of control over health care. Me. Rev. Stat. § 5-903.</p>	<p>There are no specific requirement in the statute for revocation. Only mention of revocation is mentioned in Me. Rev. Stat. § 5-910(A)(6) noting that</p>	<p>Authority that requires specific grant and general grants of authority can be found in Me. Rev. Stat. § 5-932-47. Making a gift is one action that</p>

Selected Issues in Power of Attorney Law

		acknowledged before a notary public or other individual authorized by law to take acknowledgments. Me. Rev. Stat. § 5-905(a). For a durable power of attorney to be valid, it must contain the language set out in Me. Rev. Stat. § 5-905(b).		Agent's certification.				behalf of the principal and to compensation that is reasonable under the circumstances. The factors set forth in section 3-721, subsection (b) should be considered as guides in determining the reasonableness of compensation under this section." Me. Rev. Stat. § 5-912.		agent's authority terminates at revocation.	requires specific grant of authority. <i>See</i> Me. Rev. Stat. § 5-931(A)(2); Me. Rev. Stat. § 5-947.
Maryland Md. Code Ann., Est. & Trusts § 17-105 April 10, 2012	No. The durable power of attorney provision states that this section applies to "all	The requirements for execution include: (1) In writing; (2) Signed	Attorney in fact or agent	No, the document must substantially mimic the statutory power of attorney form	Opt-in. <i>See</i> Md. Code Ann. Est. & Trusts	Yes, a person or entity that refuses to honor a power of attorney substantially	No mention	"Unless the power of attorney otherwise provides, an agent	The power of attorney provisions do not apply to "an advance di-	The agent's authority terminates when "the principal revokes the	Note that "a person may not require an additional or different form of

Selected Issues in Power of Attorney Law

<p>Public link</p>	<p>powers of attorney.” <i>See</i> Md. Code Ann. § 17-105(b). Under the Maryland General and Limited Power of Attorney Act, there is no specific required language.</p>	<p>by the principal or by some other person for the principal, in the presence of the principal, and at the express direction of the principal; (3) Acknowledged by the principal before a notary public; and (4) Attested and signed by two or more adult witnesses who sign in the presence of the principal and in the presence of each other. Md. Code Ann. § 17-110. There is also a specific provision for persons who may petition for construction of power of attorney in Md. Code Ann. Est. &</p>		<p>can be found in Md. Code Ann. Est. & Trusts § 17-201. Personal financial power of attorney form is in § 17-202. Limited power of attorney form is in § 17-203. Agent’s certification of validity and authority is in § 17-204.</p>	<p>§ 17-203.</p>	<p>similar to either statutory form is subject to a court order mandating acceptance of the power of attorney and liable for reasonable attorney’s fees and costs incurred in an action to validate or mandate acceptance of the power of attorney. <i>See</i> Md. Code Ann. Est. & Trusts § 17-104(b).</p>		<p>is entitled to reimbursement of expenses reasonably incurred on behalf of the principal but the agent is not entitled to compensation. (b) If the principal indicate in the power of attorney that the agent is entitled to compensation, the agent may receive compensation based on what is reasonable under the circumstances</p>	<p>rective appointing a health care agent under Title 5, Subtitle 6 of the Health – General Article or any other power to make health care decisions.” Md. Code Ann. Est. & Trusts § 17-109(b)(2). Separate healthcare provisions can be found in § 5-602.</p>	<p>authority.” <i>See</i> Md. Code Ann. § 17-112(1). Revocation and termination of power of attorney is governed by Md. Code Ann. Est. & Trusts § 17-106.</p>	<p>power of attorney for any authority granted in a statutory form power of attorney.” Md. Code Ann. Est. & Trusts § 17-104(a).</p>
------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------

Selected Issues in Power of Attorney Law

		Trusts § 17-103.						or on another basis as set forth in the power of attorney.” Md. Code Ann. Est. & Trusts § 17-114.			
Massachusetts A.L.M. ch.190B, § 5-501 Public link	Yes, “This power of attorney shall not be affected by subsequent disability, incompetency, or incapacity of the principal, or lapse of time” or “This power of attorney shall remain effective upon the disability or incapacity of the principal” or similar words	No mention	Agent or attorney in fact	No.	N/A	Yes, “the attorney in fact under a durable power of attorney is authorized to prosecute legal action for damages in behalf of the principal in the event of an unreasonable refusal of a third party to honor the authority of a valid durable power of attorney.” A.L.M. ch.190B, § 5-506.	No mention	No mention	Health care power of attorney provisions can be found in Mass. Gen. Laws Chapter 201D § 2.	No mention	
Michigan Mich. Comp. Laws	Yes, "This power of attorney is not affected by the	“A durable power of attorney under this section	Attorney-in-fact	No. However, specifications for	N/A	Third party is not liable to the principal or any	“A legally incapacitated individual	No mention	The durable power of attorney stat-	Not revoked until notice. Mich.	

Selected Issues in Power of Attorney Law

<p>Serv. § 700.5501 May 22, 2012 Public link</p>	<p>principal's subsequent disability or incapacity, or by the lapse of time", or "This power of attorney is effective upon the disability or incapacity of the principal", or similar words. MCLS § 700.5501.</p>	<p>shall be dated and signed voluntarily by the principal or signed by a notary public on the principal's behalf pursuant to section 33 of the Michigan notary public act, 2003 PA 238, MCL 55.293. The durable power of attorney shall be 1 or both of the following: (a) Signed in the presence of 2 witnesses, neither of whom is the attorney-in-fact, and both of whom also sign the durable power of attorney. (b) Acknowledged by the principal before a notary public, who</p>		<p>an acknowledgement of the attorney-in-fact's responsibilities can be found in Mich. Comp. Laws Serv. § 700.5501(4).</p>		<p>other person because the third party has complied in good faith with instructions from an attorney-in-fact named in a durable power of attorney whether or not the attorney-in-fact has executed an acknowledgment that complies with the requirements in this section. Mich. Comp. Laws Serv. § 700.5501(7).</p>	<p>who has a guardian with responsibility for making medical or mental health treatment decision cannot then designate another individual to make medical or mental health treatment decision for the legally incapacitated individual." Mich. Comp. Laws Serv. § 700.5520.</p>		<p>ute specifically exempts "a patient advocate designation or a similar power of attorney relating to the principal's health care." Mich. Comp. Laws Serv. § 700.5501(7)(c).</p>	<p>Comp. Laws Serv. § 700.5504.</p>	
------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--	----------------------------------------------------------------------------------------------------------------------------	--	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------	--

Selected Issues in Power of Attorney Law

		endorses on the durable power of attorney a certificate of that acknowledgment and the true date of taking the acknowledgment.” Mich. Comp. Laws Serv. § 700.5501(2)									
<p>Minnesota Minn. Stat. § 523.07 2009 Public link</p>	<p>Yes, "This power of attorney shall not be affected by incapacity or incompetence of the principal" or "This power of attorney shall become effective upon the incapacity or incompetence of the principal," or similar words</p>	<p>“A written power of attorney that is dated and purports to be signed by the principal named in it is presumed to be valid. All parties may rely on this presumption except those who have actual knowledge that the power was not validly executed.” Minn. Stat. § 523.04.</p>	<p>Attorney-in-fact</p>	<p>Yes, the statutory short form of general power of attorney along with formal requirement and joint agents can be found in Minn. Stat. § 523.23. The alternative short forms for general power of attorney for military members in active service can be found in Minn. Stat. § 523.231.</p>	<p>Opt-in. The principal must “make a check or ‘x’ on the line in front of each power being granted.”</p>	<p>Provisions holding third parties harmless can be found in Minn. Stat. § 523.19.</p>	<p>No mention</p>	<p>No mention</p>	<p>The health care provisions, including advanced directives, can be found in Minn. Stat. § 145C.02. The legal requirements are in Minn. Stat. § 145C.03 and § 145C.06.</p>	<p>“An executed power of attorney may be revoked only by a written instrument of revocation signed by the principal and, in the case of a signature on behalf of the principal by another or a signature by a mark, acknowledged before a notary public.” Minn.</p>	<p>Duties of an attorney-in-fact are specified in Minn. Stat. § 523.21. For multiple attorneys-in-fact, <i>see</i> Minn. Stat. § 523.16.</p>

Selected Issues in Power of Attorney Law

										Stat. § 523.11. Other revocation provisions including effect, definition of actual notice of revocation, presumption, and transferee affidavit of nonrevocation are in the same statute.	
Mississippi Miss. Code § 87-3-107 July 1, 2016 Public link	Yes, "This power of attorney shall not be affected by subsequent disability or incapacity of the principal, or lapse of time," or "This power of attorney shall become effective upon the disability or incapacity of the principal," or similar words	execution	Attorney in fact or letter of attorney	No, a special form is not required for most acts of power of attorney and there is no statutory form. <i>See</i> Miss. Code. § 87-3-7.	N/A	No mention	No mention	No mention	The health care power of attorney can be found in Miss. Code § 41-41-205(2).	No mention in Durable Power of Attorney Statute. There is a provision however stating that "[a]ny writing revoking letters of attorney may, when acknowledged or proved as conveyances of	There is a form letter in the statute for conveyances of land. <i>See</i> Miss. Code § 87-3-9. The form to represent party in administration of estate. <i>See</i> Miss. Code § 87-3-11.

Selected Issues in Power of Attorney Law

										land are required to be acknowledged or proved, be recorded in like manner, and with like effect from the time of being filed for record, in the office in which the letters revoked were recorded.” Miss. Code. § 87-3-17.	
Missouri Mo. Rev. Stat. § 404.705 1997 Public link	Yes, “(a) THIS IS A DURABLE POWER OF ATTORNEY AND THE AUTHORITY OF MY ATTORNEY IN FACT SHALL NOT TERMINATE IF I BECOME DISABLED OR INCAPACITATED OR IN THE EVENT OF	A durable power of attorney does not have to be recorded, except to the extent that a recording may be required for transactions affecting real estate under sections 442.360 and 442.370. See Mo. Rev. Stat. §	Attorney in fact	No.	N/A	Third parties are mentioned in Mo. Rev. Stat. § 404.719 (containing the exemptions of liability for third persons acting under good faith) and § 404.720 (containing the liabilities between the third person	Delegation of powers is found in Mo. Rev. Stat. § 404.723. It allows “[a]n attorney in fact or successor from time to time may revocably delegate any or all of	“Subject to the provisions of the power of attorney and any separate agreement, an attorney in fact is entitled to reasonable compensation for	The “Durable Power of Attorney for Health Care Act” can be found in Mo. Rev. Stat. § 404.800.	Modification or termination of the attorney in fact’s power are found in Mo. Rev. Stat. § 404.717. There are some instances that require a writing for termination	Note that a provision exists requiring that: “[a]n attorney in fact acting for the principal under a power of attorney shall clearly indicate his capacity and shall keep the

Selected Issues in Power of Attorney Law

<p>LATER UNCERTAINTY AS TO WHETHER I AM DEAD OR ALIVE"; or (b) "THIS IS A DURABLE POWER OF ATTORNEY AND THE AUTHORITY OF MY ATTORNEY IN FACT, WHEN EFFECTIVE, SHALL NOT TERMINATE OR BE VOID OR VOIDABLE IF I AM OR BECOME DISABLED OR INCAPACITATED OR IN THE EVENT OF LATER UNCERTAINTY AS TO WHETHER I AM DEAD OR ALIVE"; and (3) The power of attorney is subscribed by the principal, and dated and acknowledged in the manner prescribed by</p>	<p>404.705. Declarations pursuant to Mo. Rev. Stat. § 459.015(1) require a writing, signed by the person making the declaration or someone in their presence and by their direction, dated, and signed in the presence of two or more witnesses of at least 18 years of age if not wholly signed by the Declarant.</p>				<p>and principal).</p>	<p>the powers granted in a durable power of attorney to one or more qualified persons, subject to any directions or limitations of the principal expressed in the power of attorney, but the attorney in fact making the delegation shall remain responsible to the principal for the exercise or nonexercise of the powers delegated."</p>	<p>services rendered to the principal as attorney in fact and reimbursement for reasonable expenses incurred as a result of acting as attorney in fact for the principal." Mo. Rev. Stat. § 404.725.</p>		<p>and notification as well as compliance with the specifications laid on in the power of attorney.</p>	<p>principal's property and accounts separate and distinct from all other property and accounts in a manner to identify the property and accounts clearly as belonging to the principal." Mo. Rev. Stat. § 404.712. Additionally, details on the duties of the attorney in fact are found in Mo. Rev. Stat. § 404.714.</p>
-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--	--	--	------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--	---------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Selected Issues in Power of Attorney Law

	law for conveyances of real estate.”										
Montana Mont. Code Ann. § 72-31-304 2011 Public link	<p>“A power of attorney created under this part is durable unless it expressly provides that it is terminated by the incapacity of the principal.”</p>	<p>“A power of attorney must be signed by the principal or in the principal’s conscious presence by another individual directed by the principal to sign the principal’s name on the power of attorney. A signature on a power of attorney is presumed to be genuine if the principal acknowledges the signature before a notary public or other individual authorized by law to take acknowledgments.” Mont. Code Ann. § 72-31-305.</p>	<p>Attorney in fact or agent</p>	<p>Yes, the statutory form can be found in Mont. Code Ann. § 72-31-353.</p>	<p>Opt-in, the principal initials each subject he or she wants to include in the agent’s general authority.</p>	<p>3rd parties are not explicitly mentioned in the statute but liability for refusal to accept acknowledged power of attorney provisions are in Mont. Code Ann. § 72-31-325.</p>	<p>No mention.</p>	<p>“Unless the power of attorney otherwise provides, an agent is entitled to reimbursement of expenses reasonably incurred on behalf of the principal and to compensation that is reasonable under the circumstances.” Mont. Code Ann. § 72-31-317.</p>	<p>The durability provision for the health care power of attorney can be found in Mont. Code Ann. § 72-5-501.</p>	<p>Revocation found in Mont. Code Ann. § 72-31-310.</p>	

Selected Issues in Power of Attorney Law

<p>Nebraska Neb. Rev. Stat. § 30- 4004. Sept. 7, 2019 Public link</p>	<p>No, “A power of attorney created after January 1, 2013, under the Nebraska Uniform Power of Attorney Act is durable unless it expressly provides that it is terminated by the incapacity of the principal.”</p>	<p>Power of attorney “must be signed by the principal or marked by the principal in accordance with section 64-105.02 or signed in the principal’s conscious presence by another individual directed by the principal to sign the principal’s name on the power of attorney. A signature or mark on a power of attorney is presumed to be genuine if the principal acknowledges the signature before a notary public or other individual authorized by law to take</p>	<p>Attorney in fact</p>	<p>Yes, the statutory form for power of attorney can be found in Neb. Rev. Stat. § 30-4041.</p>	<p>Opt-in, the principal initials each subject he or she wants to include in the agent’s general authority.</p>	<p>Third parties are not explicitly mentioned but provisions involving third party interactions are addressed in Neb. Rev. Stat. § 30-4019 (Acceptance of and reliance upon acknowledged power of attorney) and § 30-4020 (Liability for refusal to accept acknowledged power of attorney).</p>	<p>No mention.</p>	<p>“Unless the power of attorney otherwise provides, an agent is entitled to reimbursement of expenses reasonably incurred on behalf of the principal and to compensation that is reasonable under the circumstances.” Neb. Rev. Stat. § 30-4012.</p>	<p>The health care provisions for power of attorney can be found in Neb. Rev. Stat. § 30-3403(1).</p>	<p>No specific provisions for revocation. Principal has the ability to revoke at any point.</p>	
------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------	-----------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------	--

Selected Issues in Power of Attorney Law

		acknowledgments. A power of attorney under the Nebraska Uniform Power of Attorney Act is not valid unless it is acknowledged before a notary public or other individual authorized by law to take acknowledgments.” Neb. Rev. Stat. § 30-4005.									
Nevada Nev. Rev. Stat. § 162A.210 2009 Public link	No, “A power of attorney created under NRS 162A.200 to 162A.660, inclusive, is durable unless it expressly provides that it is terminated by the incapacity of the principal.”	“A power of attorney must be signed by the principal or, in the principal's conscious presence, by another individual directed by the principal to sign the principal's name on the power of attorney. A signature on	Agent	Yes, the statutory form for power of attorney can be found in Nev. Rev. Stat. § 162A620.	Opt-in, the principal initials each subject he or she wants to include in the agent's general authority.	Third parties are not explicitly mentioned but provisions involving third party interactions are addressed in Nev. Rev. Stat. § 162A.360 (Acceptance of and reliance upon acknowledged power of attorney)	No mention..	“Unless the power of attorney otherwise provides, an agent is entitled to reimbursement of expenses reasonably incurred on behalf of the principal.”	The health care power of attorney is within the same chapter as the financial power of attorney. Nev. Rev. Stat. § 162A.700 to 162A.865, inclusive, apply to any power of attorney containing the authority to	No mention.	

Selected Issues in Power of Attorney Law

		a power of attorney is presumed to be genuine if the principal acknowledges the signature before a notary public or other individual authorized by law to take acknowledgments.” Nev. Rev. Stat. § 162A.210(1).				and § 162A.370 (Liability for refusal to accept acknowledged power of attorney).		Nev. Rev. Stat. § 162A.290.	make health care decisions.		
New Hampshire N.H. Rev. Stat. Ann. § 564-E:103 Jan. 1, 2018	Yes, “A power of attorney created under this chapter is durable unless it expressly provides that it is terminated by the incapacity of the principal.” N.H. Rev. Stat. Ann. § 564-E:104.	“Every power of attorney to convey real estate must be signed and acknowledged, and may be recorded as required for a deed, and a copy of the record may be used in evidence whenever a copy of the deed so made is admissible.”	Attorney in fact or agent	Yes. <i>See</i> N.H. Rev. Stat. Ann. § 564-E:301.	Opt-in	“A person that refuses in violation of this section to accept an acknowledged power of attorney: (1) is subject to a court order mandating acceptance of the power of attorney; and (2) may be held liable for reasonable attorney’s fees and costs incurred in any	No mention	“Unless the power of attorney otherwise provides, an agent is entitled to reimbursement of expenses reasonably incurred on behalf of the principal and to compensation that is	Power of attorney does not generally cover health care decisions. N.H. Rev. Stat. Ann. § 564-E:103 Written directives for medical decision making for adults without capacity to make health care decisions are in N.H. Rev. Stat.	The principal retains the right to revoke or take back this Durable Power of Attorney at any time, so long as he or she is of sound mind. General info found at N.H. Rev. Stat. Ann. § 564-E:110.	Gifts require explicit grant of authority within the durable power of attorney and cannot leave the principal without sufficient assets to pay for their care. N.H. Rev. Stat. Ann. § 506:6(V)(a).

Selected Issues in Power of Attorney Law

		N.H. Rev. Stat. Ann. § 477:9. Execution requires text found at N.H. Rev. Stat. Ann. § 564-E:105.				action or proceeding that confirms the validity of the power of attorney or mandates acceptance of the power of attorney.” N.H. Rev. Stat. Ann. § 564-E:120.		reasonable under the circumstances.” N.H. Rev. Stat. Ann. § 564-E:112.	Ann. § 137-J.		
--	--	--------------------------------------------------------------------------------------------------	--	--	--	--------------------------------------------------------------------------------------------------------------------------------------------------------------	--	------------------------------------------------------------------------	---------------	--	--

Selected Issues in Power of Attorney Law

<p>New Jersey N.J. Stat. Ann. § 46:2B-8.2 Jan. 28, 2004 Public link</p>	<p>Yes, “This power of attorney shall not be affected by subsequent disability or incapacity of the principal, or lapse of time,” or “this power of attorney shall become effective upon the disability or incapacity of the principal,” or similar words.”</p>	<p>A power of attorney must be in writing, duly signed and acknowledged in the manner set forth in N.J. Stat. Ann. § 46:14-2.1. <i>See</i> N.J. Stat. Ann. § 46:2B-8.9.</p>	<p>Attorney-in-fact</p>	<p>No.</p>	<p>N/A</p>	<p>N.J. Stat. Ann. § 46:2B-20.11.</p>	<p>“If the power of attorney shall specifically provide, the attorney-in-fact, in the exercise of reasonable care, skill and caution, may delegate to other agents such one, more, or all of the specific powers which have been conferred on the attorney-in-fact by the power of attorney.” N.J. Stat. Ann. § 46:2B-8.8.</p>	<p>“A principal shall have the power to direct whether an attorney-in-fact is to be compensated in a power of attorney or in a separate written agreement dealing with compensation. A principal may direct that an attorney-in-fact be compensated and may provide for the method by which compensation shall be</p>	<p>Health care advanced directive provisions and execution can be found in N.J. Stat. Ann. § 26:2H-56.</p>	<p>“A power of attorney is revoked when the principal has caused all executed originals of the power of attorney to be physically destroyed; or when the principal has signed and caused to be acknowledged in the manner set forth in R.S. 46:14-2.1 a written instrument of revocation; or when the principal has delivered to the attorney-in-fact a written revocation. Unless expressly so provided, the subse-</p>	<p>“This act is not intended to be the exclusive method of providing for powers of attorney for bank transactions and nothing herein shall be deemed to invalidate or make inoperable any power of attorney which is not made pursuant to this act and which is otherwise valid.” N.J. Stat. Ann. § 46:2B-17. “A power of attorney shall not be construed to authorize the attorney-in-fact to gratuitously transfer</p>
-----------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------	------------	------------	---------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Selected Issues in Power of Attorney Law

								calculated and when compensation shall be paid. In the absence of any such direction and upon appropriate application, a court of competent jurisdiction may award reasonable compensation to the attorney-in-fact.” N.J. Stat. Ann. § 46:2B-8.12.		quent execution of another power of attorney does not revoke a power of attorney.” N.J. Stat. Ann. § 46:2B-8.10.	property of the principal to the attorney-in-fact or to others except to the extent that the power of attorney expressly and specifically so authorizes.” N.J. Stat. Ann. § 46:2B-8.13a.
--	--	--	--	--	--	--	--	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--	------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Selected Issues in Power of Attorney Law

<p>New Mexico N.M. Stat. Ann. § 45-5B-104. 2011. Public link</p>	<p>“A power of attorney created under the Uniform Power of Attorney Act [45-5B-101 NMSA 1978] is durable unless it expressly provides that it is terminated by the incapacity of the principal.”</p>	<p>“A power of attorney must be signed by the principal or in the principal’s conscious presence by another individual directed by the principal to sign the principal’s name on the power of attorney. A signature on a power of attorney is presumed to be genuine if the principal acknowledges the signature before a notary public or other individual authorized by law to take acknowledgments.” N.M. Stat. Ann. § 45-5B-105.</p>	<p>Agent</p>	<p>Yes, the statutory form can be found in N.M. Stat. Ann. § 45-5B-301.</p>	<p>Opt-in, the principal initials next to each subject he or she wants to include in the agent’s general authority.</p>	<p>Third parties are not explicitly mentioned but provisions involving third party interactions are addressed in N.M. Stat. Ann. § (Acceptance of and reliance upon acknowledged power of attorney) and § 45-5B-120 (Liability for refusal to accept acknowledged power of attorney).</p>	<p>No mention.</p>	<p>“Unless the power of attorney otherwise provides, an agent is entitled to reimbursement of expenses reasonably incurred on behalf of the principal and to compensation that is reasonable under the circumstances.” N.M. Stat. Ann. § 45-5B-112.</p>	<p>Health care provisions are in a separate statute found in N.M. Stat. § 24-7A-2(B).</p>	<p>No mention.</p>	<p>Some powers require specific grant of authority. The provision governing these authorities can be found in N.M. Stat. Ann. § 45-5B-201.</p>
<p>New York N.Y. Gen. Oblig. Law § 5-1501A</p>	<p>No, “A power of attorney is durable unless it</p>	<p>“To be valid, except as otherwise provided in</p>	<p>Agent</p>	<p>Yes, the statutory short form can be found in</p>	<p>Opt-in, to grant the</p>	<p>“No third party located or doing business in</p>	<p>No mention.</p>	<p>“1. An agent is not enti-</p>	<p>Construction of the language conferring</p>	<p>“3. A principal may revoke a power of</p>	<p>Powers of attorney that are excluded</p>

Selected Issues in Power of Attorney Law

<p>Sept. 1, 2009 Public link</p>	<p>expressly provides that it is terminated by the incapacity of the principal.”</p>	<p>section 5-1512 of this title, a statutory short form power of attorney, or a non-statutory power of attorney, executed in this state by 1 a principal, must: (a) Be typed or printed using letters which are legible or of clear type no less than twelve point in size, or, if in writing, a reasonable equivalent thereof. (b) Be signed and dated by a principal with capacity, with the signature of the principal duly acknowledged in the manner prescribed for the 1 acknowledgment of a conveyance</p>		<p>N.Y. Gen. Oblig. Law § 5-1513. The “Statutory Gifts Rider” for a statutory short form power of attorney for certain gift transactions can be found in N.Y. Gen. Oblig. Law § 5-1514(10). Provisions governing modifications of the statutory short form power of attorney and of the statutory gifts rider are in N.Y. Gen. Oblig. Law § 5-1503.</p>	<p>agent some or all of the authority below, the principal must either (1) initial the bracket at each authority you grant, or (2) write or type the letters for each authority you grant on the blank line at (P), and initial the bracket at (P). If you</p>	<p>this state shall refuse, without reasonable cause, to honor a statutory short form power of attorney properly executed in accordance with section 5-1501B of this title, including a statutory short form power of attorney which is supplemented by a statutory 1 gifts rider, or a statutory short form power of attorney properly executed in accordance with the laws in effect at the time of its execution.” N.Y. Gen. Oblig. Law § 5-1504(1). “Termination of an agent’s authority or of the power</p>		<p>tled to receive compensation from the assets of the principal for responsibilities performed under a power of attorney unless the principal specifically provides for compensation in the power of attorney. 2. An agent shall be entitled to receive reimbursement from the assets of the principal for reasonable expenses actually</p>	<p>general authority with response to “health care billing and payment matters; records, reports and statement” are specific provisions found in N.Y. Gen. Oblig. Law § 5-1502K.</p>	<p>attorney: (a) in accordance with the terms of the power of attorney; or (b) by delivering a revocation of the power of attorney to the agent in person or by sending a signed and dated revocation by mail, courier, electronic transmission or facsimile to the agent’s last known address. The agent must comply with the principal’s revocation notwithstanding the actual or perceived incapacity of the principal unless</p>	<p>from this title are in N.Y. Gen. Oblig. Law § 5-1501C. For gifts over \$500 annually or certain other gift transactions, use of the “Statutory Gifts Rider” in N.Y. Gen. Oblig. § 5-1514(10) is appropriate.</p>
-------------------------------------------------------------	--------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Selected Issues in Power of Attorney Law

		<p>of real property. (c) Be signed and dated by any agent acting on behalf of the principal with the signature of the agent duly acknowledged in the manner prescribed for the 1 acknowledgment of a conveyance of real property. A power of attorney executed pursuant to this section is not invalid solely because there has been a lapse of time between the date of acknowledgment of the signature of the principal and the date or dates of 2 acknowledgment of the signa-</p>			<p>initial (P), you do not need to initial the other lines.</p>	<p>of attorney is not effective as to any third party who has not received actual notice of the termination and acts in good faith under the power of attorney.” N.Y. Gen. Oblig. Law § 5-1511(5)(a).</p>		<p>incurred in connection with the performance of the agent’s responsibilities.” N.Y. Gen. Oblig. Law § 5-1506.</p>		<p>the principal is subject to a guardianship under article eighty-one of the mental hygiene law. 4. Where a power of attorney has been recorded pursuant to section two hundred ninety-four of the real property law, the principal shall also record the revocation in the office in which the power of attorney is recorded pursuant to section three hundred twenty-six of the real property law, provided the</p>
--	--	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--	--	-----------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--	---------------------------------------------------------------------------------------------------------------------	--	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Selected Issues in Power of Attorney Law

		<p>ture or signatures of 3 any agent 4 or agents or successor agent or successor agents authorized to act on behalf of the principal or because the principal became incapacitated during any such lapse of time. (d) Contain the exact wording of the:</p> <p>(1) "Caution to the Principal" in paragraph (a) of subdivision one of section 5-1513 of this title; and (2) "Important Information for the Agent" in paragraph (n) of subdivision one of section 5-1513 of this title." N.Y. Gen. Oblig.</p>								<p>revocation complies with section three hundred seven of the state technology law." N.Y. Gen. Oblig. Law § 5-1511(3)-(4).</p>	
--	--	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--	--	--	--	--	--	--	---------------------------------------------------------------------------------------------------------------------------------	--

Selected Issues in Power of Attorney Law

		Law § 5-1501B(1).									
<p>North Carolina N.C. Gen. Stat. § 32-C-1-104 July 20, 2017</p>	<p>Yes, “A power of attorney created pursuant to this Chapter is durable unless the instrument expressly provides that it is terminated by the incapacity of the principal.” N.C. Gen. Stat. § 32C-1-104.</p>	<p>“A power of attorney must be (i) signed by the principal or in the principal's conscious presence by another individual directed by the principal to sign the principal's name on the power of attorney and (ii) acknowledged. A signature on a power of attorney is presumed to be genuine if the principal acknowledges the signature before a notary public or other individual authorized by law to take acknowledgements.” N.C. Gen.</p>	<p>Attorney-in-fact or agent</p>	<p>Yes, the statutory short form of general power of attorney can be found in N.C. Gen. Stat. § 32C-3-301.</p>	<p>Opt-in, the principal initials the line opposite any one or more of the subdivisions as to which the principal desires to give the attorney-in-fact authority.</p>	<p>A person that refuses in violation of this section to accept an acknowledged power of attorney is subject to all of the following: (1) A court order mandating acceptance of the power of attorney. (2) Liability for reasonable attorney's fees and costs incurred in any action or proceeding that mandates acceptance of the power of attorney. (3) Any other remedy available under applicable law.” More info at N.C. Gen. Stat. § 32-C-1-120.</p>	<p>“An agent may do the following on behalf of the principal or with the principal's property only if the power of attorney expressly grants the agent that authority: ... Delegate authority granted under the power of attorney.” N.C. Gen. Stat. § 32-C-1-201.</p>	<p>Allowed if specified in the terms of power of attorney. More info at N.C. Gen. Stat. § 32-C-1-112.</p>	<p>Not mentioned.</p>	<p>Revocation provisions are in N.C. Gen. Stat. § 32C-1-110.</p>	<p>There is a separate provision governing gifts under power of attorney in N.C. Gen. Stat. § 32A-14.1.</p>

Selected Issues in Power of Attorney Law

		Stat. § 32C-1-105.									
North Dakota N.D. Cent. Code, § 30.1-30-01 1989 Public link	Yes, “This power of attorney is not affected by subsequent disability or incapacity of the principal or by lapse of time,” or “This power of attorney becomes effective upon the disability or incapacity of the principal,” or similar words	No mention	Attorney in fact or agent	No.	N/A	No mention	No mention	No mention	No, there is a separate provision for health care power of attorney in N.D. Cent. Code, § 23-06.5-03.	No mention	Gift must be expressly authorized. There is a separate provision governing gifts under power of attorney in N.D. Cent. Code, § 30.1-30-06.
Ohio Ohio Rev. Code Ann. § 1337.24 Mar. 12, 2012 Public link	No, “A power of attorney created under sections 1337.21 to 1337.64 of the Revised Code is durable unless it expressly provides that it is terminated by the incapacity of the principal.”	“A power of attorney for the transfer of personal property or the transaction of business relating to the transfer of personal property, in order to be admitted to record as provided in section 1337.07 of the Revised Code, shall be signed and	Attorney in fact or agent	Yes, the statutory form can be found in Ohio Rev. Code Ann. § 1337.64.	Opt-in, the principal initials the line opposite any one or more of the subdivisions as to which the principal desires to give	No mention.	The power to delegate authority granted under the power of attorney required specific grant of authority. <i>See</i> Ohio Rev. Code Ann. § 1337.42(A)(5).	“Unless the power of attorney otherwise provides, an agent is entitled to reimbursement of expenses reasonably incurred on behalf of the principal and to compensation that is	Provisions on durable health care power of attorney can be found in Ohio Rev. Code Ann. § 1337.12.	“No instrument containing a power of attorney for the conveyance, mortgage, or lease of an interest in real property, which has been recorded, will be revoked by any act of the person by whom it was executed, un-	

Selected Issues in Power of Attorney Law

		<p>acknowledged in the same manner as deeds and mortgages under section 5301.01 of the Revised Code. When so executed, acknowledged, and recorded, a copy of the record, certified by the county recorder, with the recorder's official seal affixed to it, shall be received in all courts and places within this state as prima-facie evidence of the existence of that instrument and as conclusive evidence of the existence of that record.” Ohio Rev. Code Ann. § 1337.06. “A power of attorney for</p>			<p>the attorney-in-fact authority.</p>			<p>reasonable under the circumstances.” Ohio Rev. Code Ann. § 1337.32</p>		<p>less the instrument containing such revocation is also recorded in the same office in which the instrument containing the power of attorney was recorded.” Ohio Rev. Code Ann. § 1337.05. More info on revocation at Ohio rev. Code Ann. § 1337.30.</p>	
--	--	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--	--	----------------------------------------	--	--	---------------------------------------------------------------------------	--	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--

Selected Issues in Power of Attorney Law

		<p>the conveyance, mortgage, or lease of an interest in real property must be recorded in the office of the county recorder of the county in which such property is situated, previous to the recording of a deed, mortgage, or lease by virtue of such power of attorney.”</p> <p>Ohio Rev. Code Ann. § 1337.04. For additional provisions on execution, see Ohio Rev. Code Ann. § 1337.25 and 1337.26.</p>									
<p>Oklahoma Okla. St. tit. 58 § 1072 Nov. 1, 2010 Public link</p>	<p>Yes, “This power of attorney shall not be affected by subsequent disability, incapacity, or</p>	<p>“1. The principal shall sign the power of attorney at its end, or, if the principal is unable,</p>	<p>Attorney in fact</p>	<p>Yes, there is a statutory form provided in Okla. St. tit. 58 § 1072.2(A)(3)</p>	<p>N/A</p>	<p>No mention</p>	<p>No mention</p>	<p>No mention</p>	<p>Health care is mentioned in Okla. St. tit. 58 § 1072(B) as a power under durable</p>	<p>No mention</p>	

Selected Issues in Power of Attorney Law

<p>extended absence of the principal, or lapse of time”, or “This power of attorney shall become effective upon the disability, incapacity, or extended absence of the principal”, or similar words 58 Okl. St. § 1072.</p>	<p>some other person shall subscribe his name thereto in his presence and by his direction. The principal, or such other person, shall sign in the presence of two witnesses, each of whom shall sign his name in the presence of the principal and each other; 2. The witnesses shall not be: a. under eighteen (18) years of age, b. related to the principal by blood or marriage, or c. the attorney-in-fact or anyone related to the attorney-in-fact by blood or marriage; and 3. The execution of</p>	<p>power of attorney with exceptions.</p>
---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------

Selected Issues in Power of Attorney Law

		the power of attorney shall be in substantially the following form as provided in Okla. St. tit. 58 § 1072.2(A)(3).									
Oregon ORS § 127.005 Mar. 16, 2018	Yes, even if the principal becomes 'financially incapable'. More at ORS § 127.005	No mention.	Agent or attorney-in-fact	No	N/A	No mention.	No mention.	No mention.	No mention.	No mention.	
Pennsylvania 20 Pa. Stat. and Cons. Stat. Ann. § 5604 July 8, 2016	“Unless specifically provided otherwise in the power of attorney, all powers of attorney shall be durable as provided in section 5604 (durable powers of attorney).”	Must be signed by the principal, or by one on behalf and direction of the principal, along with acknowledgement by a notary public and witnessed	Agent	There is no statutory form, but some general guidelines in 20 Pa. Stat. and Cons. Stat. Ann. § 5602.	N/A	Liability for the refusal to acknowledge of the power of attorney is listed in 20 Pa. Stat. and Cons. Stat. Ann. § 5608.1 including the exceptions.	The power of attorney can be modified to include the ability to delegate under 20 Pa. Stat. and Cons. Stat. Ann. § 5602(b)	The agent is entitled to reasonable compensation when operating a business for the principal. Cons. Stat. Ann. §	None	Revocation on death of principal, his/her disability or incapacity (when power is not durable) or filing a complaint in divorce. <i>See</i> 20 Pa. Stat. and Cons.	The general limitations on applicability are listed in the general provisions of the chapter. 20 Pa. Stat. and Cons. Stat. Ann. § 5601.

Selected Issues in Power of Attorney Law

	20 Pa. Stat. and Cons. Stat. Ann. § 5601.1	by two individuals over 18 who did not sign for the principal. 20 Pa. Stat. and Cons. Stat. Ann. § 5601.						5603 (u.2). Generally, reasonable compensation is allowed. <i>See</i> Pa. Stat. and Cons. Stat. Ann. § 5609.		Stat. Ann. § 5605.	
Rhode Island 1995 R.I. HB 7451 Aug. 9, 1995	None.	N/A	Fiduciary or donee of a power of attorney	The statutory form for the power of attorney is found at R.I. Gen. Laws Ann. § 18-16-2.	The form follows an option method where the principal needs to initial certain portions of the power of attorney.	No mention.	The donee of a power of attorney, except as restricted by the terms thereof, may himself or herself exercise all the powers of delegation as the donor of the power of attorney might personally exercise.” R.I. Gen. Laws Ann. § 18-3-13.	No Mention.	The State does provide for durable power of attorney for health care pursuant to the statutory form in R.I. Gen. Laws Ann. § 23-4.10-2	Revocation of the power of attorney can be either “by act of the donor of the power or by operation of law” R.I. Gen. Laws Ann. § 18-3-9	

Selected Issues in Power of Attorney Law

<p>South Carolina S.C. Code Ann. § 62-5-501(A) June 10, 2017</p>	<p>Yes, "A power of attorney created pursuant to this part after the effective date is durable unless it expressly provides that it is terminated by the incapacity of the principal." S.C. Code Ann. § 62-8-104.</p>	<p>A power of attorney must be signed by the principal or by a person directed to sign for the principal, attested with the same formality as a will in South Carolina and pursuant to Section 30-5-30. S.C. Code Ann. § 62-5-501(C).</p>	<p>Attorney-in-fact or agent</p>	<p>No.</p>	<p>N/A</p>	<p>"A person that refuses in violation of this section to accept an acknowledged power of attorney is subject to: (1) a court order mandating acceptance of the power of attorney; and (2) liability for reasonable attorney's fees and costs incurred in an action or proceeding that confirms the validity of the power of attorney or mandates acceptance of the power of attorney." S.C. Code Ann. § 62-8-120(c).</p>	<p>No mention</p>	<p>"Unless the power of attorney otherwise provides, an agent is entitled to reimbursement of expenses reasonably incurred on behalf of the principal and to compensation that is reasonable under the circumstances." S.C. Code Ann. § 62-8-112.</p>	<p>No mention.</p>	<p>"An agent's authority terminates when the: (1) principal revokes the authority; (2) agent dies, becomes incapacitated, or resigns; (3) agent's authority is revoked pursuant to Section 62-2-507, unless the power of attorney otherwise provides; or (4) power of attorney terminates." More info in S.C. Code Ann. § 62-8-110.</p>	
<p>South Dakota S.D. Codified Laws § 59-6-11</p>	<p>"A durable power of attorney that purports to be signed by the</p>	<p>The execution of a power of attorney "may be recorded</p>	<p>Agent or attorney-in-fact</p>	<p>No.</p>	<p>N/A</p>	<p>The circumstances for which there is no liability for refusing</p>	<p>Agent can delegate authority only in</p>	<p>No Mention</p>	<p>"The attorney-in-fact or agent may make</p>	<p>Revocation must be filed with the</p>	

Selected Issues in Power of Attorney Law

<p>2004 Public link</p>	<p>principal named in the durable power of attorney is presumed valid. Another person may rely on the presumption of validity unless the person has actual knowledge that the power was not validly executed or that the power was revoked.</p> <p>“</p>	<p>with a register of deeds specified in the power of attorney, and a certified copy thereof shall have the same force and effect as the signed original.</p> <p>“S.D. Codified Laws § 59-7-2.2.</p>				<p>to acknowledge a power of attorney are listed in S.D. Codified Laws § 59-6-11.</p>	<p>the following circumstances:</p> <p>(1) When the act to be done is purely mechanical;</p> <p>) When it is such as the agent cannot himself, and the subagent can, lawfully perform;</p> <p>) When it is the usage of the place to delegate such powers;</p> <p>or</p> <p>) When such delegation is specially authorized by the principal.</p> <p>S.D. Codified</p>	<p>health care decisions for the principal which the principal could make individually if the principal had decisional capacity.”</p> <p>S.D. Codified Laws § 59-7-2.5.</p>	<p>office of the register of deeds.</p> <p>S.D. Codified Laws § 59-7-2.2</p> <p>Also see S.D. Codified Laws §§ 59-7-3 through 59-7-9 for the limitations on termination.</p>	
---------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--	--	--	---------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--

Selected Issues in Power of Attorney Law

							Laws § 59-3-15				
<p>Tennessee Tenn. Code Ann. § 34-6-102 1983 Public link</p>	<p>“A durable power of attorney is a power of attorney by which a principal designates another as the principal's attorney in fact in writing and the writing contains the words “This power of attorney shall not be affected by subsequent disability or incapacity of the principal,” or “This power of attorney shall become effective upon the disability or incapacity of the principal,” or similar words showing the intent of the principal that the authority conferred shall be exercisable, notwithstanding the principal's subsequent</p>	<p>It must be written and “the power of attorney is effective at the date signed or may defer the effective date to the date the principal is determined to be disabled or incapacitated. Tenn. Code Ann. § 34-6-111.</p>	<p>Attorney in fact</p>	<p>No Mention.</p>	<p>N/A.</p>	<p>No mention, but the statute is explicit in authorizing the actions of the attorney in fact to be treated as if they were the principal's own sound actions. Tenn. Code Ann. § 34-6-103.</p>	<p>There is no mention of delegation.</p>	<p>No mention, but there are circumstances for distributing gifts. Tenn. Code Ann. § 34-6-110.</p>	<p>A principal can designate a power of attorney for health care under Tenn. Code Ann. § 34-6-203.</p>	<p>There is no explicit revocation language. <i>See</i> Tenn. Code Ann. § 34-6-106.</p>	

Selected Issues in Power of Attorney Law

	disability or incapacity.”										
Texas Tex. Est. Code Ann. § 751.0021 Sept. 1, 2017	A durable power of attorney means a written instrument that is signed by an adult principal or on his direction and in his conscious presence, and contains “This power of attorney is not affected by subsequent disability or incapacity of the principal”; or similar language. Tex. Est. Code Ann. § 751.0021.	It must be a written instrument that “is acknowledged by the principal before an officer authorized under the laws of this state or another state to: (A) take acknowledgments to deeds of conveyance; and (B) administer oaths. “Tex. Est. Code Ann. § 751.0021.	Attorney in fact or agent.	Yes, found in Tex. Eset. Code Ann. § 752.051	Opt-in	A court may order a person to accept the power of attorney, may award attorney’s fees. Tex. Est. Code Ann. § 751.212.	Delegation authority can be given through an explicit grant in the power of attorney. Found in Tex. Est. Code Ann. § 751.031.	Unless the durable power of attorney otherwise provides, an agent is entitled to: (1) reimbursement of reasonable expenses incurred on the principal’s behalf; and (2) compensation that is reasonable under the circumstances. Tex. Health & Safety Code Ann. § 751.024.	The statutory form for a medical power of attorney can be found at Tex. Health & Safety Code Ann. § 166.164	Revocation proceedings may be started by any person named as a successor agent or a person who is the guardian of the principal or anyone interested in the guardianship proceedings. Tex. Est. Code Ann. § 753.001.	
Utah Utah Code Ann. § 75-9-104	“A power of attorney created under this	The power of attorney for adults and those	Agent.	Utah has statutory forms for	Opt-in, the princi-	There is liability for refusal to accept	Agents may be allowed to delegate	Agents are generally entitled to	A principal may designate a health	The circumstances and express power to	

Selected Issues in Power of Attorney Law

<p>2016 Public link</p>	<p>chapter is durable unless it expressly provides that it is terminated by the incapacity of the principal.”</p>	<p>entering into care varies: “(1) A power of attorney shall be signed by the principal or in the principal's conscious presence by another individual directed by the principal to sign the principal's name on the power of attorney before a notary public or other individual authorized by the law to take acknowledgments. A signature on a power of attorney is presumed to be genuine if the principal acknowledges the signature before a notary public or other in-</p>		<p>power of attorney and agent's certification. Utah Code Ann. §§ 75-9-301 & 75-9-302.</p>	<p>pal initials each subject he or she wants to include in the agent's general authority</p>	<p>acknowledged power of attorney “(a) a person shall either accept an acknowledged power of attorney or request a certification, a translation, or an opinion of counsel under Subsection 75-9-119(4) no later than seven business days after presentation of the power of attorney for acceptance; (b) if a person requests a certification, a translation, or an opinion of counsel under Subsection 75-9-119(4), the person shall accept the power of attorney no later than five business days after receipt of the</p>	<p>their authority under Utah Code Ann. §§ 75-9-111(2): ” A principal may grant authority to designate one or more successor agents to an agent or other person designated by name, office, or function. “</p>	<p>compensation for expenses incurred while acting as power of attorney.. Utah Code Ann. §§ 75-9-112.</p>	<p>care decision agent under Utah Code Ann § 75-2a-107.</p>	<p>terminate an agent's authority can be found at Utah Code Ann., § 75-9-110.</p>	
---------------------------------------------	-------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--	------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------	-------------------------------------------------------------	-----------------------------------------------------------------------------------	--

Selected Issues in Power of Attorney Law

	<p>dividual authorized by law to take acknowledgments. (2) If the principal resides or is about to reside in a hospital, assisted living, skilled nursing, or similar facility, at the time of execution of the power of attorney, the principal may not name any agent that is the owner, operator, health care provider, or employee of the hospital, assisted living facility, skilled nursing, or similar residential care facility unless the agent is the spouse, legal guardian, or next of kin of the principal, or unless the</p>				<p>certification, translation, or opinion of counsel; and (c) a person may not require an additional or different form of power of attorney for authority granted in the power of attorney presented. “ The statute also indicates circumstances are lawful to not accept the power of attorney. Utah Code Ann. §§ 75-9-120.</p>					
--	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--	--	--	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--	--	--	--	--

Selected Issues in Power of Attorney Law

		agent's authority is strictly limited to the purpose of assisting the principal to establish eligibility for Medicaid.” Utah Code Ann. § 75-9-105									
<p>Vermont Vt. Stat. Ann. tit. 14, § 3508 2001 Public link</p>	<p>A durable power of attorney is created by an explicit term in the power of attorney that “This power of attorney shall not be affected by the subsequent disability or incapacity of the principal,” or similar words showing the intent of the principal that the authority given the agent is intended to be exercisable notwithstanding the principal's subsequent disability or incapacity. Vt. Stat.</p>	<p>(a) A power of attorney shall be signed by the principal in the presence of at least one witness and shall be acknowledged before a notary public, who shall be a person other than the witness. (b) If the principal is physically unable to sign, the power of attorney may be signed in the principal's name written by some other</p>	<p>Agent or attorney in fact</p>	<p>No statutory form.</p>	<p>N/A.</p>	<p>No mention.</p>	<p>Agents cannot delegate unless the power is specifically granted in the power of attorney. Vt. Stat. Ann. tit. 14, § 3504.</p>	<p>“No agent may compensate him or herself for duties performed under a power of attorney with funds or property belonging to the principal unless the terms of the power of attorney explicitly provide for compensation.</p>	<p>Yes, adults are permitted to select one or more agents to make health care decisions for the principal in the form of an advance directive. Vt. Stat. Ann. tit. 14, § 3453.</p>	<p>The circumstances for which a power of attorney could be terminated are in Vt. Stat. Ann. tit. 14, § 3507.</p>	

Selected Issues in Power of Attorney Law

	Ann. Tit. 14, § 3508.	person in the principal's presence and at the principal's express direction, provided the person signing for the principal is not named as agent and the power of attorney states another person has signed for the principal and identifies the name of that person. More info at Vt. Stat. Ann. Tit. 14, § 3503.						Reasonable reimbursement for actual out-of-pocket expenditures by the agent for the benefit of the principal shall not be considered compensation." Vt. Stat. Ann. tit. 14, § 3504(d).			
Virginia Va. Code Ann. § 64.2-1602 Public link	"A power of attorney created under this chapter is durable unless it expressly provides that it is terminated by the incapacity of the principal." Va. Code Ann. § 64.2-1602.	"A power of attorney shall be signed by the principal or in the principal's conscious presence by another individual directed by the principal to sign the principal's	Agent	There is an optional statutory form. Va. Code Ann. § 64.2-1639.	N/A	There is liability for a party that refuses to accept acknowledged power of attorney under Va. Code Ann. § 64.2-1618.	Yes, "A principal may designate one or more successor agents to act if an agent resigns, dies, becomes incapacitated, is	Yes, an agent is entitled to compensation of "expenses reasonably incurred on behalf of the principal and	The Virginia Health Care Decisions Act has a statutory form for appointing agents for health care in Va. Code Ann. § 54.1-2984.	A power of attorney can be terminated under Va. Code Ann. § 64.2-1608.	

Selected Issues in Power of Attorney Law

		<p>name on the power of attorney. A signature on a power of attorney is presumed to be genuine if the principal acknowledges the signature before a notary public or other individual authorized by law to take acknowledgments. A power of attorney in order to be recordable shall satisfy the requirements of § 55.1-600.” Va. Code Ann. § 64.2-1603.</p>					<p>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 (i) has the same authority as that granted to the original agent; and (ii) may not act until all predecessor agents</p>	<p>to compensation that is reasonable under the circumstances.” unless the power of attorney specifies otherwise. Va. Code Ann. § 64.2-1610.</p>			
--	--	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--	--	--	--	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------	--	--	--

Selected Issues in Power of Attorney Law

							have re-signed, died, become incapacitated, are no longer qualified to serve, or have declined to serve. “Va. Code Ann. § 64.2-1609.				
Washington Wash. Rev. Code § 11.94.010 Jan. 1, 2017.	No, the power of attorney must explicitly state intent that the principal wanted the power of attorney to be durable, notwithstanding the principal’s incapacity. Wash. Rev. Code § 11.125.040.	“(1) A power of attorney must be signed and dated by the principal, and the signature must be either acknowledged before a notary public or other individual authorized by law to take acknowledgments, or attested by two or more competent witnesses who are neither home care	Attorney-in-fact or agent	Optional form found at Wash. Rev. Code § 11.125.430.	N/A	“(3) A person that refuses in violation of this section to accept an acknowledged power of attorney is subject to: (a) A court order mandating acceptance of the power of attorney; and (b) Liability for reasonable attorneys’ fees and costs incurred in any action or proceeding that confirms the validity of the power	A principal may designate coagents and/or successor agents. Successor agents shall have the same power as the original agent. More info at Wash. Rev. Code § 11.125.110.	“Unless the power of attorney otherwise provides, an agent is entitled to reimbursement of expenses reasonably incurred on behalf of the principal and to reasonable compensation.” Wash. Rev. Code §	“Unless the power of attorney otherwise provides, where language in a power of attorney grants general authority with respect to health care matters: (1) The agent shall be authorized to act as the principal’s personal representative pursuant to the health insurance portability	Termination reasons found at Wash. Rev. Code § 11.125.100	

Selected Issues in Power of Attorney Law

		<p>providers for the principal nor care providers at an adult family home or long-term care facility in which the principal resides, and who are unrelated to the principal or agent by blood, marriage, or state registered domestic partnership, by subscribing their names to the power of attorney, while in the presence of the principal and at the principal's direction or request. (2) A power of attorney shall be considered signed in accordance with this section if, in the case of a principal</p>				<p>of attorney or mandates acceptance of the power of attorney.” Wash. Rev. Code § 11.125.200.</p>		<p>11.125.120.</p>	<p>and accountability act, sections 1171 through 1179 of the social security act, 42 U.S.C. Sec. 1320d, as amended, and applicable regulations for all purposes thereunder, including but not limited to accessing and acquiring the principal's health care related information.” Wash. Rev. Code § 11.125.400.</p>		
--	--	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--	--	--	----------------------------------------------------------------------------------------------------	--	--------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--	--

Selected Issues in Power of Attorney Law

		who is physically unable to sign his or her name, the principal makes a mark in accordance with RCW 11.12.030, or in the case of a principal who is physically unable to make a mark, the power of attorney is executed in accordance with RCW 64.08.100. (3) A signature on a power of attorney is presumed to be genuine if the principal acknowledges the signature before a notary public or other individual authorized by law to take acknowledgments.									
--	--	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--	--	--	--	--	--	--	--	--

Selected Issues in Power of Attorney Law

		Wash. Rev. Code § 11.125.050									
<p>West Virginia W. Va. Code Ann. § 39B-1-104 2012 Public link</p>	<p>“A power of attorney created under this act is durable unless it expressly provides that it is terminated by the incapacity of the principal.” W. Va. Code Ann. § 39B-1-104.</p>	<p>To be properly executed, the power of attorney “must be signed by the principal or in the principal's conscious presence by another individual directed by the principal to sign the principal's name on the power of attorney and must be acknowledged by the principal before a notary public or other individual authorized by law to take acknowledgments. “W. Va. Code Ann. § 39B-1-105.</p>	<p>Agent.</p>	<p>Yes, the statutory form can be found at W. Va. Code Ann. § 39B-3-101.</p>	<p>Opt-in, the principal must initial each subject he or she wants to include in the agent's general authority.</p>	<p>There is liability for the refusal to accept acknowledged statutory form power of attorney. W. Va. Code Ann. § 39B-1-120.</p>	<p>Yes, “A principal may designate one or more successor agents to act if an agent resigns, dies, becomes incapacitated, is not qualified to serve, or declines to serve. A principal may grant authority to designate one or more successor agents to an agent or other person designated by name, office or function” subject to certain limitations. W.</p>	<p>Yes, “an agent is entitled to reimbursement of expenses reasonably incurred on behalf of the principal and to compensation that is reasonable under the circumstances: <i>Provided</i>, that an agent who is related to the principal as an ancestor, spouse or descendant is not entitled to compensation for services as</p>	<p>Authorization for a Medical power of attorney is located at W. Va. Code Ann. § 16-30-6.</p>	<p>A power of attorney can be terminated or modified under W. Va. Code Ann. § 39B-1-110.</p>	

Selected Issues in Power of Attorney Law

							Va. Code Ann. § 39B-1-111.	agent, unless the power of attorney specifically provides for compensation. “ W. Va. Code Ann. § 39B-1-112.			
<p>Wisconsin Wis. Stat. Ann. § 244.04 (2010) Public link</p>	<p>Yes, “A power of attorney created under this chapter is durable unless it expressly provides that it is terminated by the incapacity of the principal.</p>	<p>The State requires that “the principal must sign the power of attorney or another individual, in the principal’s conscious presence and directed by the principal, must sign the principal’s name on the power of attorney. A signature of the principal on a power of attorney is presumed</p>	<p>Agent.</p>	<p>Yes, the statutory form can be found in Wis. Stat. Ann. § 244.61.</p>	<p>Opt-in, the principal must initial each subject he or she wants to include in the agent’s general authority.</p>	<p>Liability for failing to acknowledge a properly executed power of attorney, absent good faith, can be found in Wis. Stat. Ann. § 244.20.</p>	<p>“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</p>	<p>“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</p>	<p>Power of Attorney for Healthcare is located at Wis. Stat. Ann. § 155.10.</p>	<p>There are various circumstances in which a power of attorney is passively revoked, such as the principal’s death. All revocation considerations can be found at Wis. Stat. Ann. § 244.10</p>	

Selected Issues in Power of Attorney Law

		to be genuine if the principal makes an acknowledgment of the power of attorney before a notarial officer authorized under s. 706.07 to take acknowledgments.” Wis. Stat. Ann. § 244.05					or more successor agents to an agent or other person designated by name, office, or function. “Wis. Stat. Ann. § 244.11.	the circumstances.” Wis. Stat. Ann. § 244.12.			
Wyoming Wyo. Stat. Ann. § 3-9-104 March 2, 2017	Yes, “(a) A power of attorney created on or after the effective date of this act is durable unless it expressly provides that it is terminated by the incapacity of the principal.” Wyo. Stat. Ann. § 3-9-104.	A power of attorney shall be signed by the principal or in the principal’s conscious presence by another person who is directed by the principal to sign the principal’s name on the power of attorney. A signature on a power of attorney is presumed to be genuine	Attorney in fact or Agent	Yes, at Wyo. Stat. Ann. § 3-9-301.	Opt-in.	“(c) A person who refuses to accept an acknowledged power of attorney in violation of this section is subject to the following: (i) A court order mandating acceptance of the power of attorney; (ii) Liability for reasonable attorney’s fees	A principal may delegate coagents and/or successor agents. Successor agents have the same authority granted to the original agent. More info at Wyo. Stat. Ann. § 3-9-111.	Unless the power of attorney otherwise provides, an agent is entitled to reimbursement of expenses reasonably incurred on behalf of the principal and to compensation that is	No mention.	Found at Wyo. Stat. Ann. § 3-9-110.	

Selected Issues in Power of Attorney Law

		if the principal acknowledges the signature before a notary public or other person authorized by law to take acknowledgments. Wyo. Stat. Ann. § 3-9-105.				and costs incurred in any action or proceeding that confirms the validity of the power of attorney or mandates acceptance of the power of attorney.” Wyo. Stat. Ann. § 3-9-120.		reasonable under the circumstances. Wyo. Stat. Ann. § 3-9-112.			
--	--	----------------------------------------------------------------------------------------------------------------------------------------------------------	--	--	--	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--	----------------------------------------------------------------	--	--	--

This chart is supported by grant No. 90EJIG0007-01-00 from the Administration for Community Living, U.S. Department of Health and Human Services (DHHS). Grantees carrying out projects under government sponsorship are encouraged to express freely their findings and conclusions. Therefore, points of view or opinions do not necessarily represent official Administration for Community Living or DHHS policy.

Under the ACL grant, the American Bar Association (ABA) Commission on Law and Aging coordinates and provides technical assistance to establish, expand and enhance state Working Interdisciplinary Networks of Guardianship Stakeholders (WINGS). The views expressed in this chart have not been approved by the ABA House of Delegates or the Board of Governors and should not be construed as representing the policy of the American Bar Association.