

**INSTRUCTIONS AND CHECKLIST**  
**Pennsylvania Durable Power of Attorney**

Your Name: \_\_\_\_\_

Name of spouse: \_\_\_\_\_

If you will name more than one Agent, must they act together on your behalf  
\_\_\_\_\_ (yes) \_\_\_\_\_ (no), or may each act independent of the other as alternates  
\_\_\_\_\_ (yes) \_\_\_\_\_ (no)?

Agent's name and address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Successor Agent Name  
and address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Additional Agents Name  
and address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Each Agent must sign an Acknowledgment for the power of attorney that states that the Agent will act in accordance with the principal's (YOU) reasonable expectations to the extent actually known by the Agent and, otherwise, in the principal's best interest, act in good faith, and act only within the scope of authority granted in the power of attorney.

It is important that your Agent understand what you expect the Agent to do – or not do – on your behalf. Please indicate whether you agree with the following statements:

Gifts should be made only from my excess assets, if any, that are over and above what I will likely require for my own needs. \_\_\_\_\_(yes) \_\_\_\_\_(no)

My Agent can make gifts to themselves, but not in any larger amounts than gifts made to others. \_\_\_\_\_(yes) \_\_\_\_\_(no)

I want my assets to be used solely to take care of my own needs. I do not want my Agent making any gifts of my assets to anyone else, regardless of the reason for such gifts. \_\_\_\_\_(yes) \_\_\_\_\_(no)

My Agent may make gifts, but must strictly follow my pattern of gifting, including as to donees and the amount and timing of gifts. \_\_\_\_\_(yes) \_\_\_\_\_(no)

Gifts can be made to hasten my eligibility for Medicaid or other needs-based government programs. \_\_\_\_\_(yes) \_\_\_\_\_(no)

To reduce death taxes, I would consent to my Agent making gifts to donees. \_\_\_\_\_(yes) \_\_\_\_\_(no)

Gifts made by my Agent shall be limited in amount to the federal gift tax exclusion (currently \$14,000 per person/per year). \_\_\_\_\_(yes) \_\_\_\_\_(no)

I want my Agent to be generous in spending my funds to allow me to maintain the style of living to which I have become accustomed. The chance that such spending will likely reduce the amount that my heirs will ultimately inherit is of much less concern to me. \_\_\_\_\_(yes) \_\_\_\_\_(no)

I want to continue living at my home, and if necessary receive nursing care, therapy, and long-term care at home for as long as possible, even if this option will cost more than if I were residing in an assisted living or nursing care facility. \_\_\_\_\_(yes) \_\_\_\_\_(no)

Additional duties must be spelled out and you can waive or modify the duties imposed on your Agent to your specifications. So consider whether you want to include the following as duties of your Agent:

Act loyally for the principal's benefit \_\_\_\_\_(yes) \_\_\_\_\_(no)

Keep the Agent's funds separate from your funds \_\_\_\_\_(yes) \_\_\_\_\_(no)

Act so as not to create a conflict of interest that impairs the agent's ability to act impartially in the principal's best interest \_\_\_\_\_(yes) \_\_\_\_\_(no)

Act with the care, competence and diligence ordinarily exercised by agents in similar circumstances \_\_\_\_\_(yes) \_\_\_\_\_(no)

Keep a record of all receipts, disbursements and transactions made on behalf of the principal \_\_\_\_\_(yes) \_\_\_\_\_(no)

Cooperate with a person who has authority to make health care decisions for the principal to carry out the principal's reasonable expectations to the extent actually known by the agent and, otherwise, act in the principal's best interest \_\_\_\_\_(yes) \_\_\_\_\_(no)

Attempt to preserve the principal's estate plan, to the extent actually known by the agent, if preserving the plan is consistent with the principal's best interest based on all relevant factors, including: (i) the value and nature of the principal's property; (ii) the principal's foreseeable obligations and need for maintenance; (iii) minimization of taxes, including income, estate, inheritance, generation-skipping transfer and gift taxes; and (iv) eligibility for a benefit, program or assistance under a statute or regulation \_\_\_\_\_(yes) \_\_\_\_\_(no)

Unless you specify otherwise, the new power of attorney statute requires an agent to disclose receipts, disbursements and transactions conducted on your behalf only to the following persons or entities upon request: you, a guardian or conservator on your behalf, an executor, administrator or personal representative of your estate, or a governmental agency having authority to protect your welfare. Do you agree that this shall apply to your power of attorney? \_\_\_\_\_(yes) \_\_\_\_\_(no)

You can specify in your Power of Attorney when financial records should be disclosed, and which parties will be entitled to receive them. With disclosure, the goal is to strike the right balance between protecting your expectation of privacy and requiring sufficient disclosure to reduce the risk that an agent's financial abuse might go undetected. Please indicate your preferences below.

When should records be disclosed by your Agent:

Only upon request \_\_\_\_\_

Every year, for the prior calendar year \_\_\_\_\_

Whenever an agent ceases to serve \_\_\_\_\_

Only upon my death \_\_\_\_\_

Which parties should receive your financial records:

Me while I am competent \_\_\_\_\_

A third party that I designate if I become incompetent \_\_\_\_\_

My heirs \_\_\_\_\_

## AUTHORITY THAT REQUIRES A SPECIFIC GRANT OF POWER

In order for an Agent to exercise any of the powers enumerated below, the power of attorney must specifically grant these powers to the Agent. Consider whether you want your Agent to engage in the following powers on your behalf:

Create, amend, revoke or terminate an inter vivos trust \_\_\_\_\_(yes) \_\_\_\_\_(no)

Create or change rights of survivorship \_\_\_\_\_(yes) \_\_\_\_\_(no)

Create or change a beneficiary designation \_\_\_\_\_(yes) \_\_\_\_\_(no)

Delegate authority granted under the POA \_\_\_\_\_(yes) \_\_\_\_\_(no)

Waive your right to be a beneficiary of a joint and survivor annuity, including a survivor benefit under a retirement plan \_\_\_\_\_(yes) \_\_\_\_\_(no)

Exercise fiduciary powers that the principal has the authority to delegate \_\_\_\_\_(yes) \_\_\_\_\_(no)

Disclaim your interest in property passing to you by inheritance or by operation of law \_\_\_\_\_(yes) \_\_\_\_\_(no)

Make a gift of your assets \_\_\_\_\_(yes) \_\_\_\_\_(no)

If you include the power to make gifts on your behalf, please answer the following additional questions:

Do you wish to limit the class of individuals who may receive a gift? \_\_\_\_\_(yes) \_\_\_\_\_(no)

Do you wish to limit the amount of annual gifts per person? \_\_\_\_\_(yes) \_\_\_\_\_(no)

Do you wish to make gifts equal among class members? For example, assume you have four children, a gift to one means a gift of equal value to all. \_\_\_\_\_(yes) \_\_\_\_\_(no)

Facilitate your eligibility for public benefits such as might be available through Medicaid or the Veteran's Administration \_\_\_\_\_(yes) \_\_\_\_\_(no)

If anyone you have named as an Agent is not a spouse or descendant (such as child or grandchild), please read on. The new power of attorney statute prohibits an Agent that is not a spouse or descendant of the principal from creating in the Agent (or a dependent of the Agent), an interest in the principal's property whether by gift, right of survivorship, beneficiary designation, disclaimer or otherwise. For example, if your nephew is your Agent, he may not use the power of attorney to create a joint survivor interest between the two of you. He may not benefit from any gift of assets from your estate unless you expressly grant this authority in the power of attorney. Do you wish to modify this language to account for an Agent who is not a spouse or descendant? \_\_\_\_\_(yes) \_\_\_\_\_(no)

If an Agent is selected because of special skills or expertise possessed by the Agent or in reliance on the Agent's representation that the Agent has special skills or expertise, the new power of attorney law requires that the special skills or expertise be considered in determining whether the agent has acted with care, competence and diligence under the circumstances. For example, you have two children and name them as alternate Agents in your power of attorney. One child is an accountant and the other is a mechanic. Do you hold the accountant child to a higher standard of accountability than the mechanic child?

Same standard applies to all agents? \_\_\_\_\_(yes) \_\_\_\_\_(no)

Special skills standard applies? \_\_\_\_\_(yes) \_\_\_\_\_(no)

NOTES/SPECIAL INSTRUCTIONS:

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SIGNATURE: \_\_\_\_\_ DATE: \_\_\_ / \_\_\_ / \_\_\_

SIGNATURE OF SPOUSE: \_\_\_\_\_