

POWER OF ATTORNEY ADVISORY

1. It is important to understand the meaning and effect of your power of attorney. The power of attorney is one of the strongest legal documents that an individual can give to another person. Accordingly, you must be making it of your own free will. It authorizes your agent (“grantee” or “attorney in fact”) to act on your behalf and carry on your business in your absence. Please note that a person or business does not have to accept or acknowledge your power of attorney; there is no legal requirement that another person accept the document.

2. A **general** power of attorney authorizes your agent to do any number of acts relating to your property and personal affairs. Because this document grants virtually unlimited authority to your agent, it must only be given to a person you trust completely. If you think you need a general power of attorney, consult a legal assistance attorney at your local legal assistance office.

3. A **special** power of attorney authorizes your agent to do one or more certain specified acts, such as selling your car, shipping household goods, cashing a paycheck, selling real property, or authorizing emergency medical care for your minor child. Your agent will only be able to carry out the actions specified in the special power of attorney.

4. You should grant no greater power than is necessary. In addition, your agent should be someone in whom you have absolute trust and confidence.

5. You should give the original to your agent and keep a second copy for yourself. Make sure that all copies of your power of attorney are certified as “true copies” by a notary.

6. A **durable** provision in a power of attorney permits an attorney-in-fact to act on behalf of you (“the principal”) when you can no longer make decisions. It is extremely important that the principal completely trusts the motives and judgment of the individual upon whom he/she is depending for his or her needs. If you have questions or concerns regarding a durable provision, contact a legal assistance provider at your local legal assistance office.

7. Your power of attorney will **terminate** upon: a) a date specified in the document (note that you are not required to include a termination date in your power of attorney); b) the death of either you or your agent; or c) your mental incapacitation. **Because of this, you should consider including a durable provision in your document that automatically extends your power of attorney in the event you become incompetent or incapacitated, otherwise, the document could expire when you need it the most.** Such a provision is provided below:

“Notwithstanding the inclusion of any termination date in this document, if I shall become disabled, incompetent or incapacitated, this document shall not terminate. I intend that this document shall continue in full force and effect during any such period of disability, incompetence or incapacitation, and that the authority conferred herein shall be exercisable notwithstanding my physical disability or mental incompetence.”

8. Should you desire to **revoke** a power of attorney prior to its stated termination date, you should be aware that, once executed, it is difficult to prevent a power of attorney from being used. There are some steps that may give the grantor some limited protection. These steps include, but are not limited to (a) recording a revocation in the counties in which the power was executed, in which the grantee resides, and in which the power may be used; (b) publishing notice in the newspapers in the same counties as above that the grantor has revoked the power; and (c) sending a true copy of the revocation to the grantee via registered or certified mail, return receipt requested. Contact your legal assistance office for additional information.