

SENATE FILE NO. SF0105

Uniform Power of Attorney Act.

Sponsored by: Senator(s) Scott and Nethercott and Representative(s) Olsen and Pelkey

A BILL

for

1 AN ACT relating to powers of attorney; creating the Uniform
2 Power of Attorney Act; providing definitions; providing for
3 applicability; requiring notice to agents or fiduciaries
4 under powers of attorney as specified; repealing provisions
5 related to durable powers of attorney; and providing for an
6 effective date.

7

8 *Be It Enacted by the Legislature of the State of Wyoming:*

9

10 **Section 1.** W.S. 3-9-101 through 3-9-123, 3-9-201
11 through 3-9-217, 3-9-301 and 3-9-302 and 3-9-401 through
12 3-9-403 are created to read:

13

14

CHAPTER 9

15

UNIFORM POWER OF ATTORNEY ACT

1

2

ARTICLE 1

3

GENERAL PROVISIONS

4

5

3-9-101. Short title.

6

7

This act may be cited as the "Uniform Power of Attorney

8

Act."

9

10

3-9-102. Definitions.

11

12

(a) As used in this act:

13

14

(i) "Agent" means a person granted authority to

15

act for a principal under a power of attorney whether

16

denominated an agent, attorney-in-fact or otherwise.

17

"Agent" includes an original agent, coagent, successor

18

agent and a person to which an agent's authority is

19

delegated;

20

21

(ii) "Durable," with respect to a power of

22

attorney, means not terminated by the principal's

23

incapacity;

1

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

5

6 (iv) "Good faith" means honesty in fact;

7

8 (v) "Incapacity" means inability of a person to
9 manage property or business affairs because the person:

10

11 (A) Has an impairment in the ability to
12 receive and evaluate information or make or communicate
13 decisions even with the use of technological assistance; or

14

15 (B) Is:

16

17 (I) Missing;

18

19 (II) Detained, including incarcerated
20 in a penal system; or

21

22 (III) Outside the United States and
23 unable to return.

1

2 (vi) "Power of attorney" means a writing or
3 other record that grants authority to an agent to act in
4 the place of the principal whether or not the term power of
5 attorney is used;

6

7 (vii) "Presently exercisable general power of
8 appointment," with respect to property or a property
9 interest subject to a power of appointment, means power
10 exercisable at the time in question to vest absolute
11 ownership in the principal individually, the principal's
12 estate, the principal's creditors or the creditors of the
13 principal's estate. "Presently exercisable general power
14 of appointment" includes a power of appointment not
15 exercisable until the occurrence of a specified event, the
16 satisfaction of an ascertainable standard or the passage of
17 a specified period but only after the occurrence of the
18 specified event, the satisfaction of the ascertainable
19 standard or the passage of the specified period.
20 "Presently exercisable general power of appointment" does
21 not include a power exercisable in a fiduciary capacity or
22 a power exercisable only by will;

23

1 (viii) "Principal" means a person who grants
2 authority to an agent in a power of attorney;

3

4 (ix) "Property" means anything that may be the
5 subject of ownership whether real or personal, or legal or
6 equitable, or any interest or right therein;

7

8 (x) "Record" means information that is inscribed
9 on a tangible medium or that is stored in an electronic or
10 other medium and is retrievable in perceivable form;

11

12 (xi) "Sign" means, with present intent to
13 authenticate or adopt a record, to:

14

15 (A) Execute or adopt a tangible symbol; or

16

17 (B) Attach to or logically associate with
18 the record an electronic sound, symbol or process.

19

20 (xii) "State" means a state of the United
21 States, the District of Columbia, Puerto Rico, the United
22 States Virgin Islands or any territory or insular

1 possession subject to the jurisdiction of the United
2 States;

3

4 (xiii) "Stocks and bonds" means stocks, bonds,
5 mutual funds and all other types of securities and
6 financial instruments whether held directly, indirectly or
7 in any other manner. "Stocks and bonds" does not include
8 commodity futures contracts and call or put options on
9 stocks or stock indexes;

10

11 (xiv) "This act" means W.S. 3-9-101 through
12 3-9-403.

13

14 **3-9-103. Applicability.**

15

16 (a) This act applies to all powers of attorney
17 except:

18

19 (i) A power to the extent it is coupled with an
20 interest in the subject of the power, including a power
21 given to or for the benefit of a creditor in connection
22 with a credit transaction;

23

1 (ii) A power to make health care decisions;

2

3 (iii) A proxy or other delegation to exercise
4 voting rights or management rights with respect to an
5 entity;

6

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

10

11 **3-9-104. Power of attorney is durable.**

12

13 (a) A power of attorney created on or after the
14 effective date of this act is durable unless it expressly
15 provides that it is terminated by the incapacity of the
16 principal.

17

18 (b) A power of attorney existing on the effective
19 date of this act is durable only if on that day the power
20 of attorney is durable in accordance with the law existing
21 on the day of execution of the power of attorney.

22

23 **3-9-105. Execution of power of attorney.**

1

2 A power of attorney shall be signed by the principal or in
3 the principal's conscious presence by another person who is
4 directed by the principal to sign the principal's name on
5 the power of attorney. A signature on a power of attorney
6 is presumed to be genuine if the principal acknowledges the
7 signature before a notary public or other person authorized
8 by law to take acknowledgments.

9

10 **3-9-106. Validity of power of attorney.**

11

12 (a) A power of attorney executed in this state on or
13 after the effective date of this act is valid if its
14 execution complies with W.S. 3-9-105.

15

16 (b) A power of attorney executed in this state before
17 the effective date of this act is valid if its execution
18 complied with the law of this state as it existed at the
19 time of execution.

20

21 (c) A power of attorney executed other than in this
22 state is valid in this state if, when the power of attorney
23 was executed, the execution complied with the:

1

2 (i) Law of the jurisdiction that determines the
3 meaning and effect of the power of attorney pursuant to
4 W.S. 3-9-107; or

5

6 (ii) Requirements of W.S. 19-11-202 or any
7 requirements for a military power of attorney pursuant to
8 10 U.S.C. section 1044b.

9

10 (d) Except as otherwise provided by law other than
11 this act, a photocopy or electronically transmitted copy of
12 an original power of attorney has the same effect as the
13 original.

14

15 **3-9-107. Meaning and effect of power of attorney.**

16

17 The meaning and effect of a power of attorney is determined
18 by the law of the jurisdiction indicated in the power of
19 attorney and, in the absence of an indication of
20 jurisdiction, by the law of the jurisdiction in which the
21 power of attorney was executed.

22

1 **3-9-108. Nomination of conservator or guardian;**
2 **relation of agent to court appointed fiduciary.**

3
4 (a) In a power of attorney, a principal may nominate
5 a conservator of the principal's estate or guardian of the
6 principal's person for consideration by the court if
7 protective proceedings for the principal's estate or person
8 are begun after the principal executes the power of
9 attorney. Except for good cause shown or disqualification,
10 the court shall make its appointment in accordance with the
11 principal's most recent nomination.

12
13 (b) If, after a principal executes a power of
14 attorney, a court appoints a conservator of the principal's
15 estate or other fiduciary charged with the management of
16 some or all of the principal's property, the agent is
17 accountable to the fiduciary as well as to the principal.
18 The power of attorney is not terminated and the agent's
19 authority continues unless limited, suspended or terminated
20 by the court.

21
22 **3-9-109. When power of attorney effective.**

23

1 (a) A power of attorney is effective when executed
2 unless the principal provides in the power of attorney that
3 it becomes effective at a future date or upon the
4 occurrence of a future event or contingency.

5

6 (b) If a power of attorney becomes effective upon the
7 occurrence of a future event or contingency, the principal,
8 in the power of attorney, may authorize one (1) or more
9 persons to determine in a writing or other record that the
10 event or contingency has occurred.

11

12 (c) If a power of attorney becomes effective upon the
13 principal's incapacity and the principal has not authorized
14 a person to determine whether the principal is
15 incapacitated, or the person authorized is unable or
16 unwilling to make the determination, the power of attorney
17 becomes effective upon a determination in a writing or
18 other record by:

19

20 (i) A physician or licensed psychologist that
21 the principal is incapacitated within the meaning of W.S.
22 3-9-102(a)(v)(A); or

23

1 (ii) An attorney at law, a judge or an
2 appropriate governmental official that the principal is
3 incapacitated within the meaning of W.S. 3-9-102(a)(v)(B).
4

5 (d) A person authorized by the principal in the power
6 of attorney to determine that the principal is
7 incapacitated may act as the principal's personal
8 representative pursuant to the Health Insurance Portability
9 and Accountability Act, sections 1171 through 1179 of the
10 Social Security Act, and applicable regulations, to obtain
11 access to the principal's health care information and
12 communicate with the principal's health care provider.
13

14 **3-9-110. Termination of power of attorney or agent's**
15 **authority.**
16

17 (a) A power of attorney terminates when the:
18

19 (i) Principal dies;
20

21 (ii) Principal becomes incapacitated, if the
22 power of attorney is not durable;
23

1 (iii) Principal revokes the power of attorney;

2

3 (iv) Power of attorney provides that it
4 terminates;

5

6 (v) Purpose of the power of attorney is
7 accomplished; or

8

9 (vi) Principal revokes the agent's authority or
10 the agent dies, becomes incapacitated or resigns and the
11 power of attorney does not provide for another agent to act
12 under the power of attorney.

13

14 (b) An agent's authority terminates when:

15

16 (i) The principal revokes the authority;

17

18 (ii) The agent dies, becomes incapacitated or
19 resigns;

20

21 (iii) An action is filed for the dissolution or
22 annulment of the agent's marriage to the principal or an

1 action is filed for legal separation, unless the power of
2 attorney otherwise provides; or

3

4 (iv) The power of attorney terminates.

5

6 (c) Unless the power of attorney otherwise provides,
7 an agent's authority is exercisable until the authority
8 terminates under subsection (b) of this section,
9 notwithstanding a lapse of time since the execution of the
10 power of attorney.

11

12 (d) Termination of an agent's authority or of a power
13 of attorney is not effective as to the agent or another
14 person that, without actual knowledge of the termination,
15 acts in good faith under the power of attorney. An act so
16 performed, unless otherwise invalid or unenforceable, binds
17 the principal and the principal's successors in interest.

18

19 (e) Incapacity of the principal of a power of
20 attorney that is not durable does not revoke or terminate
21 the power of attorney as to an agent or other person that,
22 without actual knowledge of the incapacity, acts in good
23 faith under the power of attorney. An act so performed,

1 unless otherwise invalid or unenforceable, binds the
2 principal and the principal's successors in interest.

3

4 (f) The execution of a power of attorney does not
5 revoke a power of attorney previously executed by the
6 principal unless the subsequent power of attorney provides
7 that the previous power of attorney is revoked or that all
8 other powers of attorney are revoked.

9

10 **3-9-111. Coagents and successor agents.**

11

12 (a) A principal may designate two (2) or more persons
13 to act as coagents. Unless the power of attorney otherwise
14 provides, each coagent may exercise its authority
15 independently.

16

17 (b) A principal may designate one (1) or more
18 successor agents to act if an agent resigns, dies, becomes
19 incapacitated, is not qualified to serve or declines to
20 serve. A principal may grant authority to designate one
21 (1) or more successor agents to an agent or other person
22 designated by name, office or function. Unless the power
23 of attorney otherwise provides, a successor agent:

1

2 (i) Has the same authority as that granted to
3 the original agent;

4

5 (ii) May not act until all predecessor agents
6 have resigned, died, become incapacitated, are no longer
7 qualified to serve or have declined to serve.

8

9 (c) Except as otherwise provided in the power of
10 attorney and subsection (d) of this section, an agent that
11 does not participate in or conceal a breach of fiduciary
12 duty committed by another agent, including a predecessor
13 agent, is not liable for the actions of the other agent.

14

15 (d) An agent that has actual knowledge of a breach or
16 imminent breach of fiduciary duty by another agent shall
17 notify the principal and, if the principal is
18 incapacitated, take any action reasonably appropriate in
19 the circumstances to safeguard the principal's best
20 interest. An agent that fails to notify the principal or
21 take action as required by this subsection is liable for
22 the reasonably foreseeable damages that could have been

1 avoided if the agent had notified the principal or taken
2 such action.

3

4 **3-9-112. Reimbursement and compensation of agent.**

5

6 Unless the power of attorney otherwise provides, an agent
7 is entitled to reimbursement of expenses reasonably
8 incurred on behalf of the principal and to compensation
9 that is reasonable under the circumstances.

10

11 **3-9-113. Agent's acceptance.**

12

13 Except as otherwise provided in the power of attorney, a
14 person accepts appointment as an agent under a power of
15 attorney by exercising authority or performing duties as an
16 agent or by any other assertion or conduct indicating
17 acceptance.

18

19 **3-9-114. Agent's duties.**

20

21 (a) Notwithstanding any provisions in the power of
22 attorney, an agent that has accepted appointment shall act:

23

1 (i) In accordance with the principal's
2 reasonable expectations to the extent actually known by the
3 agent and, otherwise, in the principal's best interest;

4

5 (ii) In good faith;

6

7 (iii) Only within the scope of authority granted
8 in the power of attorney.

9

10 (b) Except as otherwise provided in the power of
11 attorney, an agent that has accepted appointment shall:

12

13 (i) Act loyally for the principal's benefit;

14

15 (ii) Act so as not to create a conflict of
16 interest that impairs the agent's ability to act
17 impartially in the principal's best interest;

18

19 (iii) Act with the care, competence and
20 diligence ordinarily exercised by agents in similar
21 circumstances;

22

1 (iv) Keep a record of all receipts,
2 disbursements and transactions made on behalf of the
3 principal;

4

5 (v) Cooperate with any person that has authority
6 to make health care decisions for the principal to carry
7 out the principal's reasonable expectations to the extent
8 actually known by the agent and, otherwise, act in the
9 principal's best interest;

10

11 (vi) Attempt to preserve the principal's estate
12 plan, to the extent actually known by the agent, if
13 preserving the plan is consistent with the principal's best
14 interest based on all relevant factors, including:

15

16 (A) The value and nature of the principal's
17 property;

18

19 (B) The principal's foreseeable obligations
20 and need for maintenance of the property;

21

1 (C) Minimization of taxes, including
2 income, estate, inheritance, generation skipping transfer
3 and gift taxes;

4

5 (D) Eligibility for a benefit, program or
6 assistance under a statute or regulation.

7

8 (c) An agent that acts in good faith is not liable to
9 any beneficiary of the principal's estate plan for failure
10 to preserve the plan.

11

12 (d) An agent that acts with care, competence and
13 diligence for the best interest of the principal is not
14 liable solely because the agent also benefits from the act
15 or has an individual or conflicting interest in relation to
16 the property or affairs of the principal.

17

18 (e) If an agent is selected by the principal because
19 of special skills or expertise possessed by the agent or in
20 reliance on the agent's representation that the agent has
21 special skills or expertise, the special skills or
22 expertise shall be considered in determining whether the

1 agent has acted with care, competence and diligence under
2 the circumstances.

3

4 (f) Absent a breach of duty to the principal, an
5 agent is not liable if the value of the principal's
6 property declines.

7

8 (g) An agent that exercises authority to delegate to
9 another person the authority granted by the principal or
10 that engages another person on behalf of the principal is
11 not liable for an act, error of judgment or default of that
12 person if the agent exercises care, competence and
13 diligence in selecting and monitoring the person.

14

15 (h) Except as otherwise provided in the power of
16 attorney, an agent is not required to disclose receipts,
17 disbursements or transactions conducted on behalf of the
18 principal unless ordered by a court or requested by the
19 principal, a guardian, a conservator, another fiduciary
20 acting for the principal, a governmental agency having
21 authority to protect the welfare of the principal or, upon
22 the death of the principal, by the personal representative
23 or successor in interest of the principal's estate. If so

1 requested, within thirty (30) days the agent shall comply
2 with the request or provide a writing or other record
3 substantiating why additional time is needed and shall
4 comply with the request within an additional thirty (30)
5 days.

6

7 **3-9-115. Exoneration of agent.**

8

9 (a) A provision in a power of attorney relieving an
10 agent of liability for breach of duty is binding on the
11 principal and the principal's successors in interest except
12 to the extent the provision:

13

14 (i) Relieves the agent of liability for breach
15 of duty committed dishonestly, with an improper motive or
16 with reckless indifference to the purposes of the power of
17 attorney or the best interest of the principal; or

18

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

21

22 **3-9-116. Judicial relief.**

23

1 (a) The following persons may petition a court to
2 construe a power of attorney or review the agent's conduct
3 and grant appropriate relief:

4

5 (i) The principal or the agent;

6

7 (ii) A guardian, conservator or other fiduciary
8 acting for the principal;

9

10 (iii) A person authorized to make health care
11 decisions for the principal;

12

13 (iv) The principal's spouse, parent or
14 descendant;

15

16 (v) A person who would qualify as a presumptive
17 heir of the principal;

18

19 (vi) A person named as a beneficiary to receive
20 any property, benefit or contractual right on the
21 principal's death or as a beneficiary of a trust created by
22 or for the principal that has a financial interest in the
23 principal's estate;

1

2 (vii) The principal's caregiver or another
3 person that demonstrates sufficient interest in the
4 principal's welfare;

5

6 (viii) A person asked to accept the power of
7 attorney.

8

9 (b) Upon motion by the principal, the court shall
10 dismiss a petition filed under this section unless the
11 court finds that the principal lacks capacity to revoke the
12 agent's authority or the power of attorney.

13

14 **3-9-117. Agent's liability.**

15

16 (a) An agent that violates this act is liable to the
17 principal or the principal's successors in interest for the
18 amount required to:

19

20 (i) Restore the value of the principal's
21 property to what it would have been had the violation not
22 occurred; and

23

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

4
5 **3-9-118. Agent's resignation; notice.**

6
7 (a) Unless the power of attorney otherwise provides,
8 an agent may resign by giving notice to the principal and,
9 if the principal is incapacitated:

10
11 (i) To the conservator or guardian of the
12 principal if one (1) has been appointed and a coagent or
13 successor agent; or

14
15 (ii) To any one (1) of the following if there is
16 no person described in paragraph (i) of this subsection:

17
18 (A) The principal's caregiver;

19
20 (B) Another person reasonably believed by
21 the agent to have sufficient interest in the principal's
22 welfare;

23

1 (C) A governmental agency having authority
2 to protect the welfare of the principal.

3

4 **3-9-119. Acceptance of and reliance upon acknowledged**
5 **power of attorney.**

6

7 (a) A person that in good faith accepts a purportedly
8 acknowledged power of attorney without actual knowledge
9 that the signature is not genuine may rely upon the
10 presumption under W.S. 3-9-105 that the signature is
11 genuine.

12

13 (b) A person that in good faith accepts a purportedly
14 acknowledged power of attorney without actual knowledge
15 that the power of attorney is void, invalid or terminated,
16 that the purported agent's authority is void, invalid or
17 terminated or that the agent is exceeding or improperly
18 exercising the agent's authority may rely upon the power of
19 attorney as if the power of attorney were genuine, valid
20 and still in effect, the agent's authority were genuine,
21 valid and still in effect and the agent had not exceeded
22 and improperly exercised the authority.

23

1 (c) A person that is asked to accept an acknowledged
2 power of attorney may request and rely upon without further
3 investigation an:

4

5 (i) Agent's certification under penalty of
6 perjury of any factual matter concerning the principal,
7 agent or power of attorney;

8

9 (ii) English translation of the power of
10 attorney if the power of attorney contains, in whole or in
11 part, language other than English.

12

13 (d) A certification or translation requested under
14 this section shall be provided at the principal's expense.

15

16 (e) For purposes of this section and W.S. 3-9-120:

17

18 (i) "Acknowledged" means purportedly verified
19 before a notary public or other person authorized to take
20 acknowledgements;

21

22 (ii) A person that conducts activities through
23 employees is without actual knowledge of a fact relating to

1 a power of attorney, principal or agent if the employee
2 conducting the transaction involving the power of attorney
3 is without actual knowledge of the fact.

4

5 **3-9-120. Liability for refusal to accept acknowledged**
6 **power of attorney.**

7

8 (a) Except as otherwise provided in subsection (b) of
9 this section, a person that is asked to accept an
10 acknowledged power of attorney shall:

11

12 (i) Accept the acknowledged power of attorney or
13 request a certification or translation under W.S.
14 3-9-119(c) not later than seven (7) business days after
15 presentation of the power of attorney for acceptance;

16

17 (ii) If the person requests a certification or
18 translation under W.S. 3-9-119(c), accept the power of
19 attorney not later than five (5) business days after
20 receipt of the certification or translation; and

21

1 (iii) Not require an additional or different
2 form of power of attorney for authority granted in the
3 power of attorney presented.

4

5 (b) A person may refuse an acknowledged power of
6 attorney if:

7

8 (i) The person is not otherwise required to
9 engage in a transaction with the principal in the same
10 circumstances;

11

12 (ii) Engaging in a transaction with the agent or
13 the principal in the same circumstances would be
14 inconsistent with federal law;

15

16 (iii) The person has actual knowledge of the
17 termination of the agent's authority or of the power of
18 attorney before exercise of the power;

19

20 (iv) A request for a certification or
21 translation under W.S. 3-9-119(c) is refused;

22

1 (v) The person in good faith believes the power
2 is not valid or the agent does not have the authority to
3 perform the act requested whether or not a certification or
4 translation under W.S. 3-9-119(c) has been requested or
5 provided; or

6

7 (vi) The person makes, or has actual knowledge
8 that another person has made, a report to a governmental
9 agency having authority to protect the welfare of the
10 principal stating a good faith belief that the principal
11 may be subject to physical or financial abuse, neglect,
12 exploitation or abandonment by the agent or a person acting
13 for or with the agent.

14

15 (c) A person who refuses to accept an acknowledged
16 power of attorney in violation of this section is subject
17 to the following:

18

19 (i) A court order mandating acceptance of the
20 power of attorney;

21

22 (ii) Liability for reasonable attorney's fees
23 and costs incurred in any action or proceeding that

1 confirms the validity of the power of attorney or mandates
2 acceptance of the power of attorney.

3

4 **3-9-121. Principles of law and equity.**

5

6 Unless displaced by a provision of this act, the principles
7 of law and equity supplement this act.

8

9 **3-9-122. Laws applicable to financial institutions**
10 **and entities.**

11

12 This act does not supersede any other law applicable to
13 financial institutions or other entities. The other law
14 controls if inconsistent with this act.

15

16 **3-9-123. Remedies under other law.**

17

18 The remedies under this act are not exclusive and do not
19 abrogate any right or remedy under the law of this state
20 other than this act.

21

22

ARTICLE 2

23

AUTHORITY

1

2 **3-9-201. Authority that requires specific grant;**
3 **grant of general authority.**

4

5 (a) An agent under a power of attorney may do the
6 following on behalf of the principal or with the
7 principal's property only if the power of attorney
8 expressly grants the agent the authority and exercise of
9 the authority is not otherwise prohibited by another
10 agreement or instrument to which the authority or property
11 is subject:

12

13 (i) Create, amend, revoke or terminate an inter
14 vivos trust;

15

16 (ii) Make a gift;

17

18 (iii) Create or change rights of survivorship;

19

20 (iv) Create or change a beneficiary designation;

21

22 (v) Delegate authority granted under the power
23 of attorney;

1

2 (vi) Waive the principal's right to be a
3 beneficiary of a joint and survivor annuity, including a
4 survivor benefit under a retirement plan;

5

6 (vii) Exercise fiduciary powers the principal
7 has authority to delegate;

8

9 (viii) Disclaim property, including a power of
10 appointment.

11

12 (b) Notwithstanding a grant of authority to do an act
13 described in subsection (a) of this section and unless the
14 power of attorney otherwise provides, an agent that is not
15 an ancestor, spouse or descendant of the principal shall
16 not exercise authority under a power of attorney to create
17 in the agent, or in a person to whom the agent owes a legal
18 obligation of support, an interest in the principal's
19 property whether by gift, right of survivorship,
20 beneficiary designation, disclaimer or otherwise.

21

22 (c) Subject to subsections (a), (b), (d) and (e) of
23 this section, if a power of attorney grants to an agent

1 authority to do all the acts a principal may do, the agent
2 has the general authority described in W.S. 3-9-204 through
3 3-9-216.

4

5 (d) Unless the power of attorney otherwise provides,
6 a grant of authority to make a gift is subject to W.S.
7 3-9-217.

8

9 (e) Subject to subsections (a), (b) and (d) of this
10 section, if the subjects described in W.S. 3-9-204 through
11 3-9-217 over which authority is granted in a power of
12 attorney are similar or overlap, the broadest authority
13 controls.

14

15 (f) Authority granted in a power of attorney is
16 exercisable with respect to property the principal has when
17 the power of attorney is executed or later acquires whether
18 or not the property is located in this state and whether or
19 not the authority is exercised or the power of attorney is
20 executed in this state.

21

22 (g) An act performed by an agent pursuant to a power
23 of attorney has the same effect and inures to the benefit

1 of and binds the principal and the principal's successors
2 in interest as if the principal had performed the act.

3

4 **3-9-202. Incorporation of authority.**

5

6 (a) An agent has authority described in this act if
7 the power of attorney refers to general authority with
8 respect to the descriptive term for the subjects stated in
9 W.S. 3-9-204 through 3-9-217 or cites the section in which
10 the authority is described.

11

12 (b) A reference in a power of attorney to general
13 authority with respect to the descriptive term for a
14 subject stated in W.S. 3-9-204 through 3-9-217 or a
15 citation to a section of W.S. 3-9-204 through 3-9-217
16 incorporates the entire section as if it were set out in
17 full in the power of attorney.

18

19 (c) A principal may modify authority incorporated by
20 reference.

21

22 **3-9-203. Construction of authority generally.**

23

1 (a) Except as otherwise provided in the power of
2 attorney, by executing a power of attorney that
3 incorporates by reference a subject described in W.S.
4 3-9-204 through 3-9-217 or that grants to an agent
5 authority to do all the acts a principal may do pursuant to
6 W.S. 3-9-201(c), a principal authorizes the agent, with
7 respect to the subject, to:

8

9 (i) Demand, receive and obtain by litigation or
10 otherwise any money or other thing of value to which the
11 principal is, may become or claims to be entitled to and
12 conserve, invest, disburse or use anything so received or
13 obtained for the purposes intended;

14

15 (ii) Contract in any manner with any person, on
16 terms agreeable to the agent, to accomplish a purpose of a
17 transaction and perform, rescind, cancel, terminate,
18 reform, restate, release or modify the contract or any
19 other contract made by or on behalf of the principal;

20

21 (iii) Execute, acknowledge, seal, deliver, file
22 or record any instrument or communication the agent
23 considers desirable to accomplish a purpose of a

1 transaction, including creating at any time a schedule
2 listing some or all of the principal's property and
3 attaching the schedule to the power of attorney;

4

5 (iv) Initiate, participate in, submit to
6 alternative dispute resolution, settle, oppose or propose
7 or accept a compromise with respect to a claim existing in
8 favor of or against the principal or intervene in
9 litigation relating to the claim;

10

11 (v) Seek on the principal's behalf the
12 assistance of a court or other governmental agency to carry
13 out an act authorized in the power of attorney;

14

15 (vi) Engage, compensate and discharge an
16 attorney, accountant, discretionary investment manager,
17 expert witness or other advisor;

18

19 (vii) Prepare, execute and file a record, report
20 or other document to safeguard or promote the principal's
21 interest under a statute or regulation;

22

1 (viii) Communicate with any representative or
2 employee of a government or governmental subdivision,
3 agency or instrumentality on behalf of the principal;

4
5 (ix) Access communications intended for and
6 communicate on behalf of the principal whether by mail,
7 electronic transmission, telephone or other means;

8
9 (x) Do any lawful act with respect to the
10 subject and all property related to the subject.

11
12 **3-9-204. Real property.**

13
14 (a) Unless the power of attorney otherwise provides,
15 language in a power of attorney granting general authority
16 with respect to real property authorizes the agent to:

17
18 (i) Demand, buy, lease, receive, accept as a
19 gift or as security for an extension of credit or otherwise
20 acquire or reject an interest in real property or a right
21 incident to real property;

22

1 (ii) Sell, exchange, quitclaim, release,
2 surrender, retain title for security, encumber, partition,
3 consent to partitioning, subject to an easement or
4 covenant, subdivide, apply for zoning or other governmental
5 permits, plat or consent to platting, develop, grant an
6 option concerning, lease, sublease, contribute to an entity
7 in exchange for an interest in that entity, convey with or
8 without covenants, representations or warranties, or
9 otherwise grant or dispose of an interest in real property
10 or a right incident to real property;

11

12 (iii) Pledge or mortgage an interest in real
13 property or right incident to real property as security to
14 borrow money or pay, renew or extend the time of payment of
15 a debt of the principal or a debt guaranteed by the
16 principal;

17

18 (iv) Release, assign, satisfy or enforce by
19 litigation or otherwise a mortgage, deed of trust,
20 conditional sale contract, encumbrance, lien or other claim
21 to real property which exists or is asserted;

22

1 (v) Manage or conserve an interest in real
2 property or a right incident to real property owned or
3 claimed to be owned by the principal, including:

4

5 (A) Insuring against liability, casualty or
6 other loss;

7

8 (B) Obtaining or regaining possession of or
9 protecting the interest or right by litigation or
10 otherwise;

11

12 (C) Paying, assessing, compromising or
13 contesting taxes or assessments or applying for and
14 receiving refunds in connection with taxes or assessments;

15

16 (D) Purchasing supplies, hiring assistance
17 or labor and making repairs or alterations to the real
18 property.

19

20 (vi) Use, develop, alter, replace, remove, erect
21 or install structures or other improvements upon real
22 property in or incident to which the principal has, or
23 claims to have, an interest or right;

1

2 (vii) Participate in a reorganization with
3 respect to real property or an entity that owns an interest
4 in or right incident to real property and receive, hold and
5 act with respect to stocks and bonds or other property
6 received in a plan of reorganization, including:

7

8 (A) Selling or otherwise disposing of the
9 stocks and bonds or other property;

10

11 (B) Exercising or selling an option, right
12 of conversion or similar right with respect to the stocks
13 and bonds or other property;

14

15 (C) Exercising any voting rights in person
16 or by proxy.

17

18 (viii) Change the form of title of an interest
19 in or right incident to real property;

20

21 (ix) Dedicate to public use, with or without
22 consideration, easements or other real property in which
23 the principal has or claims to have an interest.

1

2 **3-9-205. Tangible personal property.**

3

4 (a) Unless the power of attorney otherwise provides,
5 language in a power of attorney granting general authority
6 with respect to tangible personal property authorizes the
7 agent to:

8

9 (i) Demand, buy, receive, accept as a gift or as
10 security for an extension of credit or otherwise acquire or
11 reject ownership or possession of tangible personal
12 property or an interest in tangible personal property;

13

14 (ii) Sell, exchange, quitclaim, release,
15 surrender, create a security interest in, grant options
16 concerning, lease, sublease, convey with or without
17 covenants, representations or warranties, or otherwise
18 dispose of tangible personal property or an interest in
19 tangible personal property;

20

21 (iii) Grant a security interest in tangible
22 personal property or an interest in tangible personal
23 property as security to borrow money or pay, renew or

1 extend the time of payment of a debt of the principal or a
2 debt guaranteed by the principal;

3

4 (iv) Release, assign, satisfy or enforce by
5 litigation or otherwise a security interest, lien or other
6 claim on behalf of the principal with respect to tangible
7 personal property or an interest in tangible personal
8 property;

9

10 (v) Manage or conserve tangible personal
11 property or an interest in tangible personal property on
12 behalf of the principal, including:

13

14 (A) Insuring against liability, casualty or
15 other loss;

16

17 (B) Obtaining or regaining possession of or
18 protecting the property or interest by litigation or
19 otherwise;

20

21 (C) Paying, assessing, compromising or
22 contesting taxes or assessments or applying for and
23 receiving refunds in connection with taxes or assessments;

1

2 (D) Moving the property from place to
3 place;

4

5 (E) Storing the property for hire or on a
6 gratuitous bailment;

7

8 (F) Using and making repairs, alterations
9 or improvements to the property.

10

11 (vi) Change the form of title of an interest in
12 tangible personal property.

13

14 **3-9-206. Stocks and bonds.**

15

16 (a) Unless the power of attorney otherwise provides,
17 language in a power of attorney granting general authority
18 with respect to stocks and bonds authorizes the agent to:

19

20 (i) Buy, sell and exchange stocks and bonds;

21

22 (ii) Establish, continue, modify or terminate an
23 account with respect to stocks and bonds;

1

2 (iii) Pledge stocks and bonds as security to
3 borrow, pay, renew or extend the time of payment of a debt
4 of the principal;

5

6 (iv) Receive certificates and other evidences of
7 ownership with respect to stocks and bonds;

8

9 (v) Exercise voting rights with respect to
10 stocks and bonds in person or by proxy, enter into voting
11 trusts and consent to limitations on the right to vote.

12

13 **3-9-207. Commodities and options.**

14

15 (a) Unless the power of attorney otherwise provides,
16 language in a power of attorney granting general authority
17 with respect to commodities and options authorizes the
18 agent to:

19

20 (i) Buy, sell, exchange, assign, settle and
21 exercise commodity futures contracts and call or put
22 options on stocks or stock indexes traded on a regulated
23 option exchange;

1

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

4

5 **3-9-208. Banks and other financial institutions.**

6

7 (a) Unless the power of attorney otherwise provides,
8 language in a power of attorney granting general authority
9 with respect to banks and other financial institutions
10 authorizes the agent to:

11

12 (i) Continue, modify and terminate an account or
13 other banking arrangement made by or on behalf of the
14 principal;

15

16 (ii) Establish, modify and terminate an account
17 or other banking arrangement with a bank, trust company,
18 savings and loan association, credit union, thrift company,
19 brokerage firm or other financial institution selected by
20 the agent;

21

1 (iii) Contract for services available from a
2 financial institution, including renting a safe deposit box
3 or space in a vault;

4

5 (iv) Withdraw by check, order, electronic funds
6 transfer or otherwise any money or property of the
7 principal deposited with or left in the custody of a
8 financial institution;

9

10 (v) Receive statements of account, vouchers,
11 notices and similar documents from a financial institution
12 and act with respect to the statements, vouchers, notices
13 and similar documents;

14

15 (vi) Enter a safe deposit box or vault and
16 withdraw or add to the contents;

17

18 (vii) Borrow money and pledge as security
19 personal property of the principal necessary to borrow the
20 money or pay, renew or extend the time of payment of a debt
21 of the principal or a debt guaranteed by the principal;

22

1 (viii) Make, assign, draw, endorse, discount,
2 guarantee and negotiate promissory notes, checks, drafts
3 and other negotiable or nonnegotiable paper of the
4 principal or payable to the principal or the principal's
5 order, transfer money, receive the cash or other proceeds
6 of those transactions and accept a draft drawn by a person
7 upon the principal and pay the draft when due;

8

9 (ix) Receive for the principal and act upon a
10 sight draft, warehouse receipt or other document of title
11 whether tangible or electronic or other negotiable or
12 nonnegotiable instrument;

13

14 (x) Apply for, receive and use letters of
15 credit, credit and debit cards, electronic transaction
16 authorizations and traveler's checks from a financial
17 institution and give an indemnity or other agreement in
18 connection with letters of credit;

19

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

23

1 **3-9-209. Operation of entity or business.**

2

3 (a) Subject to the terms of a document or an
4 agreement governing an entity or an entity ownership
5 interest and unless the power of attorney otherwise
6 provides, language in a power of attorney granting general
7 authority with respect to operation of an entity or
8 business authorizes the agent to:

9

10 (i) Operate, buy, sell, enlarge, reduce or
11 terminate an ownership interest;

12

13 (ii) Perform a duty or discharge a liability and
14 exercise in person or by proxy a right, power, privilege or
15 option the principal has, may have or claims to have;

16

17 (iii) Enforce the terms of an ownership
18 agreement;

19

20 (iv) Initiate, participate in, submit to
21 alternative dispute resolution, settle, oppose or propose
22 or accept a compromise with respect to litigation to which
23 the principal is a party because of an ownership interest;

1

2 (v) Exercise in person or by proxy or enforce by
3 litigation or otherwise a right, power, privilege or option
4 the principal has or claims to have as the holder of stocks
5 and bonds;

6

7 (vi) Initiate, participate in, submit to
8 alternative dispute resolution, settle, oppose or propose
9 or accept a compromise with respect to litigation to which
10 the principal is a party concerning stocks and bonds;

11

12 (vii) With respect to an entity or business
13 owned solely by the principal:

14

15 (A) Continue, modify, renegotiate, extend
16 and terminate a contract made by or on behalf of the
17 principal with respect to the entity or business before
18 execution of the power of attorney;

19

20 (B) Determine the:

21

22 (I) Location of the entity's or
23 business's operation;

1

2

(II) Nature and extent of the entity's
or business's operation;

4

5

(III) Methods of manufacturing,
selling, merchandising, financing, accounting and
advertising employed in the entity's or business's
operation;

9

10

(IV) Amount and types of insurance
carried by the entity or business;

12

13

(V) Mode of engaging, compensating and
dealing with the entity's or business's employees and
accountants, attorneys or other advisors.

16

17

(C) Change the name or form of organization
under which the entity or business is operated and enter
into an ownership agreement with other persons to take over
all or part of the operation of the entity or business;

21

22

(D) Demand and receive money due or claimed
by the principal or on the principal's behalf in the

23

1 operation of the entity or business and control and
2 disburse the money in the operation of the entity or
3 business.

4

5 (viii) Put additional capital into an entity or
6 business in which the principal has an interest;

7

8 (ix) Join in a plan of reorganization,
9 consolidation, conversion, domestication or merger of the
10 entity or business;

11

12 (x) Sell or liquidate all or part of an entity
13 or business;

14

15 (xi) Establish the value of an entity or
16 business under a buyout agreement to which the principal is
17 a party;

18

19 (xii) Prepare, sign, file and deliver reports,
20 compilations of information, returns or other papers with
21 respect to an entity or business and make related payments;

22

1 (xiii) Pay, compromise or contest taxes,
2 assessments, fines or penalties and perform any other act
3 to protect the principal from illegal or unnecessary
4 taxation, assessments, fines or penalties, with respect to
5 an entity or business, including attempts to recover, in
6 any manner permitted by law, money paid before or after the
7 execution of the power of attorney.

8
9 **3-9-210. Insurance and annuities.**

10
11 (a) Unless the power of attorney otherwise provides,
12 language in a power of attorney granting general authority
13 with respect to insurance and annuities authorizes the
14 agent to:

15
16 (i) Continue, pay the premium or make a
17 contribution on, modify, exchange, rescind, release or
18 terminate a contract procured by or on behalf of the
19 principal which insures or provides an annuity to either
20 the principal or another person whether or not the
21 principal is a beneficiary under the contract;

22

1 (ii) Procure new, different and additional
2 contracts of insurance and annuities for the principal and
3 the principal's spouse, children and other dependents and
4 select the amount, type of insurance or annuity and mode of
5 payment;

6
7 (iii) Pay the premium or make a contribution on,
8 modify, exchange, rescind, release or terminate a contract
9 of insurance or annuity procured by the agent;

10
11 (iv) Apply for and receive a loan secured by a
12 contract of insurance or annuity;

13
14 (v) Surrender and receive the cash surrender
15 value on a contract of insurance or annuity;

16
17 (vi) Exercise an election;

18
19 (vii) Exercise investment powers available under
20 a contract of insurance or annuity;

21
22 (viii) Change the manner of paying premiums on a
23 contract of insurance or annuity;

1

2 (ix) Change or convert the type of insurance or
3 annuity with respect to which the principal has or claims
4 to have authority described in this subsection;

5

6 (x) Apply for and procure a benefit or
7 assistance under a statute or regulation to guarantee or
8 pay premiums of a contract of insurance on the life of the
9 principal;

10

11 (xi) Collect, sell, assign, hypothecate, borrow
12 against or pledge the interest of the principal in a
13 contract of insurance or annuity;

14

15 (xii) Select the form and timing of the payment
16 of proceeds from a contract of insurance or annuity;

17

18 (xiii) Pay, from proceeds or otherwise,
19 compromise or contest and apply for refunds in connection
20 with a tax or assessment levied by a taxing authority with
21 respect to a contract of insurance or annuity or its
22 proceeds or liability accruing by reason of the tax or
23 assessment.

1

2 **3-9-211. Estates, trusts and other beneficial**
3 **interests.**

4

5 (a) Unless the power of attorney otherwise provides,
6 language in a power of attorney granting general authority
7 with respect to estates, trusts and other beneficial
8 interests authorizes the agent to:

9

10 (i) Accept, receive, receipt for, sell, assign,
11 pledge or exchange a share in or payment from an estate,
12 trust or other beneficial interest;

13

14 (ii) Demand or obtain any money or other thing
15 of value to which the principal is, may become or claims to
16 be entitled to by reason of an estate, trust or other
17 beneficial interest, by litigation or otherwise;

18

19 (iii) Exercise for the benefit of the principal
20 a presently exercisable general power of appointment held
21 by the principal;

22

1 (iv) Initiate, participate in, submit to
2 alternative dispute resolution, settle, oppose or propose
3 or accept a compromise with respect to litigation to
4 ascertain the meaning, validity or effect of a deed, will,
5 declaration of trust or other instrument or transaction
6 affecting the interest of the principal;

7

8 (v) Initiate, participate in, submit to
9 alternative dispute resolution, settle, oppose or propose
10 or accept a compromise with respect to litigation to
11 remove, substitute or surcharge a fiduciary;

12

13 (vi) Conserve, invest, disburse or use anything
14 received for an authorized purpose;

15

16 (vii) Transfer an interest of the principal in
17 real property, stocks and bonds, accounts with financial
18 institutions or securities intermediaries, insurance,
19 annuities and other property to the trustee of a revocable
20 trust created by the principal as settlor.

21

22 (b) As used in this section, "estate, trust or other
23 beneficial interest" means a trust, probate estate,

1 guardianship, conservatorship, escrow or custodianship or a
2 fund from which the principal is, may become or claims to
3 be entitled to a share or payment.

4

5 **3-9-212. Claims and litigation.**

6

7 (a) Unless the power of attorney otherwise provides,
8 language in a power of attorney granting general authority
9 with respect to claims and litigation authorizes the agent
10 to:

11

12 (i) Assert and maintain before a court or
13 administrative agency a claim, claim for relief, cause of
14 action, counterclaim, offset, recoupment or defense,
15 including an action to recover property or other thing of
16 value, recover damages sustained by the principal,
17 eliminate or modify tax liability or seek an injunction,
18 specific performance or other relief;

19

20 (ii) Bring an action to determine adverse claims
21 or intervene or otherwise participate in litigation;

22

1 (iii) Seek an attachment, garnishment, order of
2 arrest or other preliminary, provisional or intermediate
3 relief and use an available procedure to effect or satisfy
4 a judgment, order or decree;

5

6 (iv) Make or accept a tender, offer of judgment
7 or admission of facts, submit a controversy on an agreed
8 statement of facts, consent to examination and bind the
9 principal in litigation;

10

11 (v) Submit to alternative dispute resolution,
12 settle and propose or accept a compromise;

13

14 (vi) Waive the issuance and service of process
15 upon the principal, accept service of process, appear for
16 the principal, designate persons upon which process
17 directed to the principal may be served, execute and file
18 or deliver stipulations on the principal's behalf, verify
19 pleadings, seek appellate review, procure and give surety
20 and indemnity bonds, contract and pay for the preparation
21 and printing of records and briefs, receive, execute and
22 file or deliver a consent, waiver, release, confession of
23 judgment, satisfaction of judgment, notice, agreement or

1 other instrument in connection with the prosecution,
2 settlement or defense of a claim or litigation;

3

4 (vii) Act for the principal with respect to
5 bankruptcy or insolvency whether voluntary or involuntary
6 concerning the principal or some other person or with
7 respect to a reorganization, receivership or application
8 for the appointment of a receiver or trustee which affects
9 an interest of the principal in property or other thing of
10 value;

11

12 (viii) Pay a judgment, award or order against
13 the principal or a settlement made in connection with a
14 claim or litigation;

15

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

18

19 **3-9-213. Personal and family maintenance.**

20

21 (a) Unless the power of attorney otherwise provides,
22 language in a power of attorney granting general authority

1 with respect to personal and family maintenance authorizes
2 the agent to:

3

4 (i) Perform the acts necessary to maintain the
5 customary standard of living of the principal, the
6 principal's spouse and the following persons whether living
7 when the power of attorney is executed or later born:

8

9 (A) The principal's children;

10

11 (B) Other persons legally entitled to be
12 supported by the principal;

13

14 (C) The persons whom the principal has
15 customarily supported or indicated the intent to support.

16

17 (ii) Make periodic payments of child support and
18 other family maintenance required by a court or
19 governmental agency or an agreement to which the principal
20 is a party;

21

22 (iii) Provide living quarters for the persons
23 described in paragraph (i) of this subsection by:

1

2

(A) Purchase, lease or other contract; or

3

4

5

6

7

(B) Paying the operating costs, including interest, amortization payments, repairs, improvements and taxes for premises owned by the principal or occupied by those persons.

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

(iv) Provide normal domestic help, usual vacations and travel expenses and funds for shelter, clothing, food, appropriate education, including postsecondary and vocational education, and other current living costs for the persons described in paragraph (i) of this subsection;

(v) Pay expenses for necessary health care and custodial care on behalf of the persons described in paragraph (i) of this subsection;

(vi) Act as the principal's personal representative pursuant to the Health Insurance Portability and Accountability Act, sections 1171 through 1179 of the Social Security Act, and applicable regulations, in making

1 decisions related to the past, present or future payment
2 for the provision of health care consented to by the
3 principal or anyone authorized under the law of this state
4 to consent to health care on behalf of the principal;

5
6 (vii) Continue any provision made by the
7 principal for automobiles or other means of transportation,
8 including registering, licensing, insuring and replacing
9 the automobiles or other means of transportation for the
10 persons described in paragraph (i) of this subsection;

11
12 (viii) Maintain credit and debit accounts for
13 the convenience of the persons described in paragraph (i)
14 of this subsection and open new accounts;

15
16 (ix) Continue payments incidental to the
17 membership or affiliation of the principal in a religious
18 institution, club, society, order or other organization or
19 continue contributions to those organizations.

20
21 (b) Authority with respect to personal and family
22 maintenance is neither dependent upon, nor limited by,

1 authority that an agent may or may not have with respect to
2 gifts under this act.

3

4 **3-9-214. Benefits from governmental programs or civil**
5 **or military service.**

6

7 (a) Unless the power of attorney otherwise provides,
8 language in a power of attorney granting general authority
9 with respect to benefits from governmental programs or
10 civil or military service authorizes the agent to:

11

12 (i) Execute vouchers in the name of the
13 principal for allowances and reimbursements payable by the
14 United States or a foreign government or by a state or
15 subdivision of a state to the principal, including
16 allowances and reimbursements for transportation of the
17 persons described in W.S. 3-9-213(a)(i) and for shipment of
18 those persons' household effects;

19

20 (ii) Take possession and order the removal and
21 shipment of property of the principal from a post,
22 warehouse, depot, dock or other place of storage or
23 safekeeping, either governmental or private, and execute

1 and deliver a release, voucher, receipt, bill of lading,
2 shipping ticket, certificate or other instrument for that
3 purpose;

4

5 (iii) Enroll in, apply for, select, reject,
6 change, amend or discontinue, on the principal's behalf, a
7 benefit or program;

8

9 (iv) Prepare, file and maintain a claim of the
10 principal for a benefit or assistance, financial or
11 otherwise, to which the principal may be entitled to
12 receive under a statute or regulation;

13

14 (v) Initiate, participate in, submit to
15 alternative dispute resolution, settle, oppose or propose
16 or accept a compromise with respect to litigation
17 concerning any benefit or assistance the principal may be
18 entitled to receive under a statute or regulation;

19

20 (vi) Receive the financial proceeds of a claim
21 described in paragraph (iv) of this subsection and
22 conserve, invest, disburse or use for a lawful purpose
23 anything so received.

1

2 (b) As used in this section, "benefits from
3 governmental programs or civil or military service" means
4 any benefit, program or assistance provided under a statute
5 or regulation including social security, medicare and
6 medicaid.

7

8 **3-9-215. Retirement plans.**

9

10 (a) Unless the power of attorney otherwise provides,
11 language in a power of attorney granting general authority
12 with respect to retirement plans authorizes the agent to:

13

14 (i) Select the form and timing of payments under
15 a retirement plan and withdraw benefits from a plan;

16

17 (ii) Make a rollover including a direct
18 trustee-to-trustee rollover of benefits from one (1)
19 retirement plan to another;

20

21 (iii) Establish a retirement plan in the
22 principal's name;

23

1 (iv) Make contributions to a retirement plan;

2

3 (v) Exercise investment powers available under a
4 retirement plan;

5

6 (vi) Borrow from, sell assets to or purchase
7 assets from a retirement plan.

8

9 (b) As used in this section, "retirement plan" means
10 a plan or account created by an employer, the principal or
11 another person to provide retirement benefits or deferred
12 compensation of which the principal is a participant,
13 beneficiary or owner, including a plan or account under the
14 following sections of the Internal Revenue Code:

15

16 (i) An individual retirement account under 26
17 U.S.C. section 408;

18

19 (ii) A Roth individual retirement account under
20 26 U.S.C. section 408A;

21

22 (iii) A deemed individual retirement account
23 under 26 U.S.C. section 408(q);

1

2 (iv) An annuity or mutual fund custodial account
3 under 26 U.S.C. section 403(b);

4

5 (v) A pension, profit sharing, stock bonus or
6 other retirement plan qualified under 26 U.S.C. section
7 401(a);

8

9 (vi) A deferred compensation plan under 26
10 U.S.C. section 457(b);

11

12 (vii) A nonqualified deferred compensation plan
13 under 26 U.S.C. section 409A.

14

15 **3-9-216. Taxes.**

16

17 (a) Unless the power of attorney otherwise provides,
18 language in a power of attorney granting general authority
19 with respect to taxes authorizes the agent to:

20

21 (i) Prepare, sign and file federal, state, local
22 and foreign income, gift, payroll, property, Federal
23 Insurance Contributions Act and other tax returns, claims

1 for refunds, requests for extension of time, petitions
2 regarding tax matters and any other tax related documents,
3 including receipts, offers, waivers, consents, including
4 consents and agreements under section 2032A of the Internal
5 Revenue Code, closing agreements and any power of attorney
6 required by the Internal Revenue Service or other taxing
7 authority with respect to a tax year upon which the statute
8 of limitations has not run and the following twenty-five
9 (25) tax years;

10

11 (ii) Pay taxes due, collect refunds, post bonds,
12 receive confidential information and contest deficiencies
13 determined by the Internal Revenue Service or other taxing
14 authority;

15

16 (iii) Exercise any election available to the
17 principal under federal, state, local or foreign tax law;

18

19 (iv) Act for the principal in all tax matters
20 for all periods before the Internal Revenue Service or
21 other taxing authority.

22

23 **3-9-217. Gifts.**

1

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

5

6 (i) Make outright to, or for the benefit of, a
7 person a gift of any of the principal's property, including
8 by the exercise of a presently exercisable general power of
9 appointment held by the principal, in an amount per donee
10 not to exceed the annual dollar limits of the federal gift
11 tax exclusion under section 2503(b) of the Internal Revenue
12 Code without regard to whether the federal gift tax
13 exclusion applies to the gift or if the principal's spouse
14 agrees to consent to a split gift pursuant to section 2513
15 of the Internal Revenue Code in an amount per donee not to
16 exceed twice the annual federal gift tax exclusion limit;

17

18 (ii) Consent, pursuant to section 2513 of the
19 Internal Revenue Code, to the splitting of a gift made by
20 the principal's spouse in an amount per donee not to exceed
21 the aggregate annual gift tax exclusions for both spouses.

22

1 (b) An agent may make a gift of the principal's
2 property only as the agent determines is consistent with
3 the principal's objectives if actually known by the agent
4 and, if unknown, as the agent determines is consistent with
5 the principal's best interest based on all relevant
6 factors, including:

7

8 (i) The value and nature of the principal's
9 property;

10

11 (ii) The principal's foreseeable obligations and
12 need for maintenance of the property;

13

14 (iii) Minimization of taxes, including income,
15 estate, inheritance, generation skipping transfer and gift
16 taxes;

17

18 (iv) Eligibility for a benefit, program or
19 assistance under a statute or regulation;

20

21 (v) The principal's personal history of making
22 or joining in making gifts.

23

1 (c) As used in this section, a gift "for the benefit
2 of" a person includes a gift to a trust, an account under
3 the federal Uniform Transfers to Minors Act and a tuition
4 savings account or prepaid tuition plan as defined under
5 section 529 of the Internal Revenue Code.

6

7

ARTICLE 3

8

STATUTORY FORMS

9

10 **3-9-301. Statutory form power of attorney.**

11

12 (a) A document substantially in the following form
13 may be used to create a statutory form power of attorney
14 that has the meaning and effect prescribed by this act:

15

16

STATE OF WYOMING

17

STATUTORY FORM POWER OF ATTORNEY

18

IMPORTANT INFORMATION

19

20 This power of attorney authorizes another person (your
21 agent) to make decisions concerning your property for you
22 (the principal). Your agent will be able to make decisions
23 and act with respect to your property (including your

1 money) whether or not you are able to act for yourself.
2 The meaning of authority over subjects listed on this form
3 is explained in the Uniform Power of Attorney Act, W.S.
4 3-9-101 through 3-9-403.

5

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

8

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

14

15 Your agent is entitled to reasonable compensation unless
16 you state otherwise in the Special Instructions.

17

18 This form provides for designation of one (1) agent. If
19 you wish to name more than one (1) agent you may name a
20 coagent in the Special Instructions. Coagents are not
21 required to act together unless you include that
22 requirement in the Special Instructions.

23

1 If your agent is unable or unwilling to act for you, your
2 power of attorney will end unless you have named a
3 successor agent. You may also name a second successor
4 agent.

5

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

8

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

12

13

DESIGNATION OF AGENT

14

15 I (name of principal) name the following person as my
16 agent:

17

18 Name of Agent:

19

20 Agent's address:

21

22 Agent's Telephone Number:

23

1 DESIGNATION OF SUCCESSOR AGENT(S) (OPTIONAL)

2

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

5

6 Name of Successor Agent:

7

8 Successor Agent's Address:

9

10 Successor Agent's Telephone Number:

11

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

14

15 Name of Second Successor Agent:

16

17 Second Successor Agent's Address:

18

19 Second Successor Agent's Telephone Number:

20

21 GRANT OF GENERAL AUTHORITY

22

1 I grant my agent and any successor agent general authority
2 to act for me with respect to the following subjects as
3 defined in the Uniform Power of Attorney Act, W.S. 3-9-101
4 through 3-9-403:

5

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

10

11 (...) Real Property

12

13 (...) Tangible Personal Property

14

15 (...) Stocks and Bonds

16

17 (...) Commodities and Options

18

19 (...) Banks and Other Financial Institutions

20

21 (...) Operation of Entity or Business

22

23 (...) Insurance and Annuities

1

2 (...) Estates, Trusts and Other Beneficial Interests

3

4 (...) Claims and Litigation

5

6 (...) Personal and Family Maintenance

7

8 (...) Benefits from Governmental Programs or Civil or
9 Military Service

10

11 (...) Retirement Plans

12

13 (...) Taxes

14

15 (...) All Preceding Subjects

16

17 GRANT OF SPECIFIC AUTHORITY (OPTIONAL)

18

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

22

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

6

7 (...) Create, amend, revoke or terminate an inter vivos
8 trust

9

10 (...) Make a gift, subject to the limitations of the
11 Uniform Power of Attorney Act, W.S. 3-9-217, and any
12 special instructions in this power of attorney

13

14 (...) Create or change rights of survivorship

15

16 (...) Create or change a beneficiary designation

17

18 (...) Authorize another person to exercise the authority
19 granted under this power of attorney

20

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

1

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

4

5 (...) Disclaim or refuse an interest in property,
6 including a power of appointment

7

8 LIMITATION ON AGENT'S AUTHORITY

9

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

14

15 SPECIAL INSTRUCTIONS (OPTIONAL)

16

17 You may give special instructions on the following lines:

18

19 _____

20 _____

21 _____

22

23 EFFECTIVE DATE

1

2 This power of attorney is effective immediately unless I
3 have stated otherwise in the Special Instructions.

4

5 NOMINATION OF CONSERVATOR OR GUARDIAN (OPTIONAL)

6

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

10

11 Name of Nominee for conservator of my estate:

12

13 Nominee's Address:

14

15 Nominee's Telephone Number:

16

17 Name of Nominee for guardian of my person:

18

19 Nominee's Address:

20

21 Nominee's Telephone Number:

22

23 RELIANCE ON THIS POWER OF ATTORNEY

1

2 Any person, including my agent, may rely upon the validity
3 of this power of attorney or a copy of it unless that
4 person knows it has terminated or is invalid.

5

6

SIGNATURE AND ACKNOWLEDGMENT

7

8 Your Signature and Date:

9

10 Your Name Printed:

11

12 Your Address:

13

14 Your Telephone Number:

15

16 State of:

17

18 County of:

19

20 This document was acknowledged before me on (Date), by
21 (Name of Principal).

22

23 (Seal, if any)

1

2 Signature of Notary:

3

4 My commission expires:

5

6

IMPORTANT INFORMATION FOR AGENT

7

8 Agent's Duties

9

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

15

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

20

21 (2) Act in good faith;

22

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

3

4 (4) Disclose your identity as an agent whenever you
5 act for the principal by writing or printing the name of
6 the principal and signing your own name as "agent" in the
7 following manner:

8

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

10

11 Unless the Special Instructions in this power of attorney
12 state otherwise, you shall also:

13

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

15

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

18

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

20

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

23

1 (5) Cooperate with any person that has authority to
2 make health care decisions for the principal to do what you
3 know the principal reasonably expects or, if you do not
4 know the principal's expectations, to act in the
5 principal's best interest; and

6

7 (6) Attempt to preserve the principal's estate plan
8 if you know the plan and preserving the plan is consistent
9 with the principal's best interest.

10

11 Termination of Agent's Authority

12

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

18

19 (1) Death of the principal;

20

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

23

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

3
4 (4) The purpose of the power of attorney is fully
5 accomplished; or

6
7 (5) If you are married to the principal, a legal
8 action is filed with a court to end your marriage or for
9 your legal separation unless the Special Instructions in
10 this power of attorney state that such action will not
11 terminate your authority.

12
13 Liability of Agent

14
15 The meaning of the authority granted to you is defined in
16 the Uniform Power of Attorney Act, W.S. 3-9-101 through
17 3-9-403. If you violate the Uniform Power of Attorney Act,
18 W.S. 3-9-101 through 3-9-403, or act outside the authority
19 granted, you may be liable for any damages caused by your
20 violation.

21
22 If there is anything about this document or your duties
23 that you do not understand, you should seek legal advice.

1

2

3-9-302. Agent's certification.

3

4

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

5

6

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

7

10 State of:

11

12 County of:

13

14 I, (Name of Agent), certify under penalty of perjury that
15 (Name of Principal) granted me authority as an agent or
16 successor agent in a power of attorney dated (Date).

17

18 I further certify that to my knowledge:

19

20 (1) The Principal is alive and has not revoked the
21 Power of Attorney or my authority to act under the Power of
22 Attorney and the Power of Attorney and my authority to act
23 under the Power of Attorney have not terminated;

1

2 (2) If the Power of Attorney was drafted to become
3 effective upon the happening of an event or contingency,
4 the event or contingency has occurred;

5

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

8

9 (4) (Insert other relevant statements)

10

11 SIGNATURE AND ACKNOWLEDGMENT

12

13 Agent's Signature:

14

15 Date:

16

17 Agent's Name Printed:

18

19 Agent's Address:

20

21 Agent's Telephone Number:

22

1 This document was acknowledged before me on (Date), by
2 (Name of Agent).

3

4 (Seal, if any)

5

6 Signature of Notary:

7

8 My commission expires:

9

10

ARTICLE 4

11

MISCELLANEOUS PROVISIONS

12

13 **3-9-401. Uniformity of application and construction.**

14

15 In applying and construing this uniform act, consideration
16 shall be given to the need to promote uniformity of the law
17 with respect to its subject matter among the states that
18 enact it.

19

20 **3-9-402. Relation to electronic signatures in global
21 and national commerce act.**

22

1 This act modifies, limits and supersedes the federal
2 Electronic Signatures in Global and National Commerce Act,
3 15 U.S.C. section 7001 et seq., but does not modify, limit
4 or supersede section 101(c) of that act, 15 U.S.C. section
5 7001(c), or authorize electronic delivery of any of the
6 notices described in section 103(b) of that act, 15 U.S.C.
7 section 7003(b).

8

9 **3-9-403. Effect on existing powers of attorney.**

10

11 (a) Except as otherwise provided in this act, this
12 act applies to a:

13

14 (i) Power of attorney created before, on or
15 after the effective date of this act;

16

17 (ii) Judicial proceeding concerning a power of
18 attorney commenced on or after the effective date of this
19 act;

20

21 (iii) Judicial proceeding concerning a power of
22 attorney commenced before the effective date of this act
23 unless the court finds that application of a provision of

1 this act would substantially interfere with the effective
2 conduct of the judicial proceeding or prejudice the rights
3 of a party, in which case that provision does not apply and
4 the superseded law applies.

5

6 (b) Except as otherwise provided by this act, an act
7 done before the effective date of this act is not affected
8 by this act.

9

10 (c) A power of attorney created prior to the
11 effective date of this act or existing on the effective
12 date of this act is durable as determined pursuant to W.S.
13 3-9-104 and is otherwise construed and applied in
14 accordance with this act.

15

16 **Section 2.** W.S. 3-2-102(b) (intro), 3-3-102(a) (intro)
17 and 3-5-103 are amended to read:

18

19 **3-2-102. Notice; when required; governed by rules of**
20 **civil procedure.**

21

22 (b) Notice of filing of a petition for appointment of
23 an involuntary guardianship shall be served on the proposed

1 ward's parents, agent or fiduciary under a known power of
2 attorney, spouse and adult children who are known or who
3 can be discovered with due diligence, except:

4
5 **3-3-102. Notice; when required; governed by rules of**
6 **civil procedure.**

7
8 (a) Notice of filing of a petition for appointment of
9 an involuntary conservator shall be served on the proposed
10 ward, his custodian, the proposed conservator and upon the
11 proposed ward's parents, agent or fiduciary under a known
12 power of attorney, adult children and spouse who are known
13 or who can be discovered with due diligence, except:

14
15 **3-5-103. Revocation of power of attorney by**
16 **recordation.**

17
18 Unless the power of attorney otherwise specifically
19 provides, any power of attorney executed ~~after the~~
20 ~~effective date of this act, including but not limited to~~
21 ~~powers of attorney described in W.S. 3-5-101 or 3-5-102,~~
22 prior to January 1, 2018 may be revoked either in the same
23 manner as a power of attorney executed on or after January

1 1, 2018 or by recording an instrument of revocation with a
2 true copy of the power of attorney attached, in the office
3 of the county clerk of the county in which the principal
4 resides. Constructive notice of the revocation is given
5 from and after the date of recording the instrument of
6 revocation.

7

8 **Section 3.** W.S. 3-5-101 and 3-5-102 are repealed.

9

10 **Section 4.** This act is effective January 1, 2018.

11

12

(END)