

1 jurisdiction of the United States.

2 (14t) “Stocks and bonds” means stocks, bonds, mutual funds, and all other types
3 of securities and financial instruments, whether held directly, indirectly, or in any other manner.

4 The term does not include commodity futures contracts and call or put options on stocks or stock
5 indexes.

6 (u) A grammatical antecedent referred to by the relative pronoun “who” need not
7 refer to an individual but may refer to anything that is a person within the meaning of this act.

8 (2) Except as otherwise provided in this subsection, a person has knowledge of a fact if
9 the person has actual knowledge of it, the person has received a notice or notification of it, or
10 from all the facts and circumstances known to the person at the time in question, the person has
11 reason to know it.

12 (a) An entity that conducts activities through one or more employees has notice
13 or knowledge of a fact involving a power of attorney, a principal, or an agent only from the time
14 the information was received by an employee conducting a transaction involving the power or
15 from the time the information would have been brought to the employee's attention if the entity
16 had exercised reasonable diligence. For this purpose, an entity exercises reasonable diligence if
17 the entity maintains reasonable routines for communicating significant information to the
18 employee conducting the transaction involving the power and there is reasonable compliance
19 with the routines. Reasonable diligence does not require an employee of the entity to
20 communicate information unless the communication is part of the individual's regular duties, or
21 the individual knows a matter concerning the transaction involving the power would be
22 materially affected by the information.

23 (b) An entity that conducts activities through one or more employees has actual

1 knowledge of a fact relating to a power of attorney, a principal, or an agent only if the employee
2 conducting the transaction involving the power has actual knowledge of the fact.

3 **SECTION 103. APPLICABILITY.** This [act] applies to all powers of attorney except
4 the following:

5 (1a) a-A power to the extent it is coupled with an interest in the subject of the power,
6 including a power given to or for the benefit of a creditor in connection with a credit transaction;

7 (2b) a-A power to make health-care decisions;

8 (c) A delegation of a parent or guardian's power regarding care, custody, or property of a
9 minor child or ward.

10 (3d) a-A proxy or other delegation to exercise voting rights or management rights with
11 respect to an entity; ~~and.~~

12 (4e) a-A power created on a form prescribed by a government or governmental
13 subdivision, agency, or instrumentality for a governmental purpose.

14 **SECTION 104. LIMITED PRESUMPTION POWER OF ATTORNEY IS**
15 **DURABLE DURABILITY.** A power of attorney created ~~under on~~ or after the effective date of
16 this [act] that is executed in accordance with subsection (2) or (3) of section 105 is durable
17 unless it expressly provides that it is terminated by the incapacity of the principal. A power of
18 attorney created on or after the effective date of this act that is not executed in accordance with
19 subsection (2) or (3) of section 105 is not durable.

20 **SECTION 105. EXECUTION OF POWER OF ATTORNEY.**

21 (1) A power of attorney created on or after the effective date of this act must be signed
22 by the principal, or in the principal's conscious presence by another individual directed by the
23 principal to sign the principal's name ~~on the power of attorney.~~

1 (2) To be durable, a power of attorney to which subsection (1) applies that is signed by
2 the principal must be either acknowledged by the principal before a notary public or other
3 individual authorized to take acknowledgements or signed in the presence of 2 witnesses, neither
4 of whom is an agent nominated in the power, both of whom also sign the power, and one of
5 whom may be an individual who also acts, in the principal's execution of the power, as a notary
6 public or other individual authorized to take acknowledgements.

7 (3) To be durable, a power of attorney to which subsection (1) applies that is signed in
8 the principal's conscious presence by another individual directed by the principal to sign the
9 principal's name must be signed in the presence of 2 witnesses as described in subsection (2),
10 regardless of whether the power is acknowledged.

11 (4) A signature on a power of attorney is presumed to be genuine if the principal
12 acknowledges the signature before a notary public or other individual authorized by law to take
13 acknowledgments.

14 (5) A signature on a power of attorney that is witnessed as described in subsection (2)
15 but is not acknowledged by the principal before a notary public or other individual authorized by
16 law to take acknowledgments is not entitled to the presumption of genuineness under subsection
17 (4), and the power is not "acknowledged" within the meaning of sections 119 and 120.

18 **SECTION 106. VALIDITY OF POWER OF ATTORNEY.**

19 ~~(a) A power of attorney executed in this state on or after [the effective date of this [act]]~~
20 ~~is valid if its execution complies with Section 105.~~

21 ~~—(b) A power of attorney executed in this state before [the effective date of this [act]] is~~
22 ~~valid if, when the power was executed, the its execution complied with the requirements for the~~
23 ~~execution of a power of attorney under the law of this state as it existed at the that time of~~

1 ~~execution.~~

2 (e2) A power of attorney that is not executed ~~other than~~ in this state is valid in this state
3 if, when the power ~~of attorney~~ was executed, the execution complied with either of the
4 following:

5 (1a) ~~the~~ The requirements for the execution of a power of attorney under the law
6 of the jurisdiction that determines the meaning and effect of the power ~~of attorney~~ pursuant to
7 ~~Section-section~~ 107; or under the law of the jurisdiction in which the principal was domiciled at
8 the time of execution.

9 (2b) ~~the~~ The requirements for a military power of attorney pursuant to 10 U.S.C.
10 ~~Section-section~~ 1044b ~~[, as amended]~~.

11 (d3) Except as otherwise provided in the power of attorney or by statute other than this
12 ~~[act]~~, a photocopy or electronically transmitted copy of an original power of attorney has the
13 same effect as the original.

14 **SECTION 107. MEANING AND EFFECT OF POWER OF ATTORNEY.** The
15 meaning and effect of a power of attorney is determined by the law of the jurisdiction indicated
16 in the power ~~of attorney~~ and, in the absence of an indication of jurisdiction, by the law of the
17 jurisdiction in which the power ~~of attorney~~ was executed.

18 **SECTION 108. NOMINATION OF ~~{CONSERVATOR OR GUARDIAN}~~;**
19 **RELATION OF AGENT TO COURT-APPOINTED FIDUCIARY.**

20 (a1) In a power of attorney, a principal may nominate a ~~[conservator or guardian]~~ of the
21 principal's estate or ~~[guardian]~~ of the principal's person for ~~consideration by the court if~~ the case
22 in which protective proceedings for the principal's estate or person are begun after the principal
23 executes the power ~~of attorney~~. ~~[Except for good cause shown or disqualification]~~ If consistent

1 with applicable law on priority and suitability, the court shall make its appointment in
2 accordance with the principal's most recent nomination in a power of attorney.}]

3 (b2) If, after a principal executes a power of attorney, a court appoints a {conservator or
4 guardian} of the principal's estate or other fiduciary charged with the management of some or all
5 of the principal's property, both of the following apply:

6 _____ (a) ~~the~~The agent is accountable to the fiduciary as well as to the principal.

7 _____ (b) {The power of attorney is not terminated, and the agent's authority continues
8 unless limited, suspended, or terminated by the court.}]

9 **SECTION 109. WHEN POWER OF ATTORNEY EFFECTIVE.**

10 (a1) A power of attorney is effective when executed unless the principal provides in the
11 power-~~of attorney~~ that it becomes effective at a specified future date or upon the occurrence of a
12 specified future event or contingency.

13 (b2) If a power of attorney is intended to becomes effective upon the occurrence of a
14 specified future event or contingency, the principal, ~~in the power of attorney,~~ may, in the power,
15 authorize one or more persons to determine in a ~~writing or other~~ record that the event or
16 contingency has occurred.

17 (e3) If a power of attorney is intended to becomes effective upon the principal's
18 incapacity and the principal has not authorized a person to determine whether the principal is
19 incapacitated, or the person authorized is unable or unwilling to make the determination, the
20 power-~~of attorney~~ becomes effective upon a determination in a ~~writing or other~~ record by either
21 of the following:

22 (1a) ~~a~~ A physician {or licensed psychologist} that the principal is incapacitated
23 within the meaning of ~~Section-section~~ 102(5i)(A); or

1 (2b) ~~an~~An attorney at law, a judge, or an appropriate governmental official that
2 the principal is incapacitated within the meaning of ~~Section-section~~ 102(5i)(Bii).

3 (4) A person authorized by the principal in the power of attorney to determine that the
4 principal is incapacitated may, to the extent necessary or convenient in making that
5 determination, act as the principal’s personal representative pursuant to the Health Insurance
6 Portability and Accountability Act, ~~Sections-sections~~ 1171 through 1179 of the Social Security
7 Act, 42 U.S.C. ~~Section-section~~ 1320d, ~~[as amended,]~~ and applicable regulations, to obtain access
8 to the principal’s health-care information and communicate with the principal’s health-care
9 provider.

10 **SECTION 110. TERMINATION OF POWER OF ATTORNEY OR AGENT’S**
11 **AUTHORITY.**

12 (a) A power of attorney terminates when any of the following occurs:

13 (1a) ~~the~~The principal dies;

14 (2b) In the case of a power of attorney that is not durable, the principal becomes
15 incapacitated, ~~if the power of attorney is not durable~~;

16 (3c) ~~the~~The principal revokes the power of attorney;

17 (4d) ~~the~~An event occurs that, according to the terms of the power of attorney,
18 terminates the power-of attorney provides that it terminates;

19 (5e) In the case of a power of attorney that is intended only for a specified,
20 limited purpose, the specified purpose of the power-of attorney is accomplished; ~~or~~;

21 (6f) ~~the~~The principal revokes the agent’s ~~authority~~authority, or the agent dies,
22 becomes incapacitated, or resigns, and the power of attorney does not provide for another agent
23 to act under the power-of attorney.

1 (~~b~~2) An agent’s authority terminates when any of the following occurs:

2 (~~1a~~) ~~the~~The principal revokes the authority~~;~~.

3 (~~2b~~) ~~the~~The agent dies, becomes incapacitated, or resigns~~;~~.

4 (~~3c~~) ~~an~~An action is filed for the [~~dissolution~~] or annulment of the agent’s
5 marriage to the principal or ~~their~~for the legal separation of the agent and the principal, unless the
6 power of attorney ~~otherwise~~ provides otherwise~~;~~or.

7 (~~4d~~) ~~the~~The power of attorney terminates.

8 (~~e~~3) Unless the power of attorney ~~otherwise~~ provides otherwise, an agent’s authority is
9 exercisable until the authority terminates under subsection (~~b~~2), notwithstanding ~~a~~any lapse of
10 time since the execution of the power ~~of attorney~~.

11 (~~d~~4) Termination of an agent’s authority or of a power of attorney is not effective as to
12 the agent or another person ~~that~~who, without actual knowledge of the termination, acts in good
13 faith under or in reliance upon the power ~~of attorney~~. An act so performed, unless otherwise
14 invalid or unenforceable, binds the principal and the principal’s successors in interest.

15 (~~e~~5) Incapacity of the principal of a power of attorney that is not durable does not revoke
16 or terminate the power ~~of attorney~~ as to an agent or other person ~~that~~who, without actual
17 knowledge of the incapacity, acts in good faith under or in reliance upon the power ~~of attorney~~.
18 An act so performed, unless otherwise invalid or unenforceable, binds the principal and the
19 principal’s successors in interest.

20 (~~f~~6) The execution of a power of attorney does not revoke a power of attorney previously
21 executed by the principal unless the subsequent power ~~of attorney~~ provides that the previous
22 power ~~of attorney~~ is revoked or that all other powers of attorney are revoked.

23 **SECTION 111. COAGENTS AND SUCCESSOR AGENTS.**

1 (a1) A principal may designate two or more persons to act as coagents. Unless the
2 power of attorney ~~otherwise~~ provides otherwise, each coagent may exercise ~~its~~the authority
3 granted in the power independently.

4 (b2) A principal may designate one or more successor agents ~~to act if~~for the case in
5 which an agent resigns, dies, becomes incapacitated, is not qualified to serve, or declines to
6 serve. A principal may grant authority to designate one or more successor agents to an agent or
7 other person designated by name, office, or function. Unless the power of attorney ~~otherwise~~
8 provides otherwise, a successor agent:

9 ~~_____ (1)~~ has the same authority as that granted to the original agent; and

10 ~~_____ (2)~~ may not act until all of the successor agent's predecessor ~~agents~~ under the
11 terms of the power of attorney have resigned, died, become incapacitated, are no longer qualified
12 to serve, or have declined to serve.

13 (e3) Except ~~as otherwise provided into the extent~~ the power ~~of attorney and subsection~~
14 ~~(d)~~provides that coagents and successor agents shall be liable for one another's misconduct, an
15 agent ~~that~~under a given power of attorney who does not participate in or conceal a breach of
16 fiduciary duty committed by another agent, ~~including a predecessor agent, who is or was serving~~
17 under that power, including a predecessor agent under the power, is not liable for the actions of
18 the other agent only as provided in subsection (4).

19 (d4) An agent ~~that~~serving under a given power of attorney who has ~~actual~~ knowledge of
20 a breach or imminent breach of fiduciary duty by another agent who is or was serving under that
21 power, including a predecessor agent under the power, shall notify the principal and, if the
22 principal is incapacitated, take any action reasonably appropriate in the circumstances to
23 safeguard the principal's best interest. An agent ~~that~~who fails to notify the principal or take

1 action as required by this subsection is liable for the reasonably foreseeable damages that could
2 have been avoided if the agent had notified the principal or taken such action.

3 **SECTION 112. REIMBURSEMENT AND COMPENSATION OF AGENT.** Unless
4 the power of attorney ~~otherwise~~ provides otherwise, an agent is entitled to both of the following:

5 (a) reimbursement ~~Reimbursement~~ of expenses reasonably incurred on behalf of the
6 principal ~~and to~~.

7 (b) Reasonable compensation ~~compensation for services rendered on behalf of the~~
8 principal ~~that is reasonable under the circumstances~~.

9 **SECTION 113. AGENT'S ACCEPTANCE; ACKNOWLEDGEMENT OF**
10 **DUTIES.**

11 (1) Except as otherwise provided in the power of attorney, a person accepts appointment
12 as an agent under a power of attorney by exercising authority ~~or performing duties~~ as an agent or
13 by any other assertion or conduct indicating acceptance.

14 (2) Before exercising authority under a durable power of attorney, an agent shall execute
15 an acknowledgment of the agent's duties that contains all the substantive statements contained in
16 the optional template "Agent's Acknowledgement" provided in section 302 in substantially the
17 form of that optional template.

18 (3) An agent's failure to comply with subsection (2) does not affect the agent's authority
19 to act for the principal as provided in the durable power of attorney or this act, does not alter the
20 agent's duties under the power and this act, and does not mitigate the agent's potential liability
21 for breach of those duties.

22 **SECTION 114. AGENT'S DUTIES.**

23 (a1) Notwithstanding provisions to the contrary in the power of attorney, an agent ~~that~~

1 who has accepted appointment shall do all of the following:

2 (1a) ~~act~~ Act in accordance with ~~the principal's~~ reasonable expectations ~~to the~~
3 ~~extent of the principal that are~~ actually known ~~by to~~ the agent and, ~~otherwise to the extent the~~
4 ~~principal's expectations are not actually known~~, act in the principal's best interest~~;~~.

5 (2b) ~~act~~ Act in good faith~~; and~~.

6 (3c) ~~act~~ Act only within the scope of authority granted ~~by the principal in the~~
7 ~~power of attorney~~.

8 ~~_____ (d) Keep reasonable records of receipts, disbursements, and transactions made by~~
9 ~~the agent on behalf of the principal.~~

10 (b2) Except as otherwise provided in the power of attorney, an agent ~~that who~~ who has
11 accepted appointment shall do all of the following:

12 (1a) ~~act~~ Act loyally for the principal's benefit~~;~~.

13 (2b) ~~act~~ Act so as not to create a conflict of interest that impairs the agent's
14 ability to act impartially in the principal's best interest~~;~~.

15 (3c) ~~act~~ Act with the care, competence, and diligence ~~ordinarily exercised by~~
16 ~~agents in similar circumstances; that a prudent person would in dealing with the property of~~
17 ~~another~~.

18 ~~_____ (4) keep a record of all receipts, disbursements, and transactions made on behalf~~
19 ~~of the principal;~~

20 (5d) ~~cooperate~~ Cooperate with a person ~~that who~~ who has authority to make health-
21 care decisions for the principal to carry out ~~the principal's~~ reasonable expectations ~~to the extent of~~
22 ~~the principal concerning health-care that are~~ actually known ~~by to~~ the agent and, ~~to the extent~~
23 ~~such expectations are not actually known otherwise~~, to act in the principal's best interest~~; and~~.

1 (6e) ~~attempt~~Attempt to preserve the principal's estate plan, to the extent that plan
2 is actually known ~~by to~~ the agent, ~~if and~~ preserving the plan is consistent with the principal's best
3 interest based on ~~all~~ relevant factors, including all of the following:

4 (Ai) ~~the~~The value and nature of the principal's property;

5 (Bii) ~~the~~The principal's foreseeable obligations and need for
6 maintenance;

7 (Ciii) ~~minimization of~~The desirability of minimizing taxes, including
8 income, estate, inheritance, generation-skipping transfer, and gift taxes; ~~and~~.

9 (Div) ~~eligibility~~Eligibility for a benefit, a program, or assistance under a
10 statute or regulation.

11 (e3) An agent ~~that who~~ acts in good faith is not liable to any beneficiary of the
12 principal's estate plan for failure to preserve the plan.

13 (d4) An agent ~~that who~~ acts for the best interest of the principal with the care,
14 competence, and diligence that a prudent person would in dealing with the property of another
15 ~~for the best interest of the principal~~ is not liable solely because the agent also benefits from the
16 act or has an individual or conflicting interest in relation to the property or affairs of the
17 principal.

18 (e5) If an agent is selected by the principal because of special skills or expertise
19 possessed by the agent or in reliance on the agent's representation that the agent has special skills
20 or expertise, the special skills or expertise must be considered in determining whether the agent
21 has acted with care, competence, and diligence ~~under the circumstances~~.

22 (f6) ~~Absent a breach of duty to the principal, an agent is not liable if the~~A decline in the
23 value of the principal's property ~~declines~~ is not in itself sufficient to establish a breach of

1 fiduciary duty.

2 (7) An agent serving under a given power of attorney who has no knowledge of a breach
3 or imminent breach of fiduciary duty by another agent who is or was serving under that power
4 does not have a duty to investigate the conduct of any such coagent or predecessor agent in order
5 to rule out the possibility of any such breach.

6 (g8) An agent ~~that-who~~ exercises authority to delegate to another person the authority
7 granted by the principal or ~~that-who~~ engages another person on behalf of the principal is not
8 liable for an act, error of judgment, or default of that person if the agent exercises care,
9 competence, and diligence in selecting and monitoring the person.

10 (h9) Except as otherwise provided in the power of attorney, an agent is not required to
11 disclose receipts, disbursements, or transactions conducted on behalf of the principal unless
12 ordered by a court or requested by the principal, a guardian, a conservator, another fiduciary
13 acting for the principal, a governmental agency having authority to protect the welfare of the
14 principal, or, upon the death of the principal, by the personal representative or successor in
15 interest of the principal's estate. If a person who is authorized by the power of attorney or by
16 this subsection to request a disclosure described in this subsection makes such a request~~o~~
17 ~~requested, within 30 days~~ the agent shall comply with the request within 30 days or provide a
18 ~~writing or other~~ record substantiating why additional time is needed ~~and shall~~. In the latter case,
19 the agent shall comply with the request within an additional 30 days.

20 **SECTION 115. EXONERATION OF AGENT.**

21 (1) A provision in a power of attorney relieving an agent of liability for breach of duty is
22 binding on the principal and the principal's successors in interest except to the extent ~~the~~
23 ~~provision~~ either of the following applies:

1 ~~(1a)~~ The provision relieves the agent of liability for breach of duty committed
2 ~~dishonestly in bad faith, with an improper motive, or, except as provided in subsection (2),~~ with
3 reckless indifference to the purposes of the power of attorney or the best interest of the principal;
4 ~~or,~~

5 ~~(2b)~~ The provision was inserted as a result of an abuse of a confidential or
6 fiduciary relationship with the principal.

7 ~~(2) A provision in a power of attorney relieving an agent of liability under section 111(4)~~
8 ~~is binding on the principal and the principal's successors in interest except to the extent that it~~
9 ~~relieves the agent of liability for breach of duty committed in bad faith or was inserted as a result~~
10 ~~of an abuse of a confidential or fiduciary relationship with the principal.~~

11 **SECTION 116. JUDICIAL RELIEF.**

12 ~~(a1) The~~ Without precluding other bases on which such matters may properly be brought
13 before the court, any of the following persons may petition a court to construe a power of
14 attorney or review the agent's conduct, and grant appropriate relief:

15 ~~(1a) the~~ The principal or the agent;

16 ~~(2b) a~~ A guardian, conservator, or other fiduciary acting for the principal;

17 ~~(3c) a~~ A person authorized who, at the time of the petition, is exercising authority
18 to make health-care decisions for the principal;

19 ~~(4) the principal's spouse, parent, or descendant;~~

20 ~~(5d) an~~ An individual who, at the time of the petition, would ~~qualify as a~~
21 ~~presumptive~~ be an heir of the principal if the principal were to die intestate at that time;

22 ~~(6e) a~~ A person named as a beneficiary to receive any property, benefit, or
23 contractual right on the principal's death or as a beneficiary of a trust created by or for the

1 principal ~~that~~ the trustee of which has a financial interest in the principal's estate;

2 (f) The personal representative of the principal's estate.

3 ~~(7g) a~~ A governmental agency having regulatory authority to protect the welfare
4 of the principal;

5 ~~(8h) the principal's~~ A caregiver or another person ~~that~~ who demonstrates sufficient
6 interest in the principal's welfare; ~~and.~~

7 ~~(9i) a~~ A person asked to accept the power of attorney.

8 ~~(b2)~~ Upon motion by the principal, the court shall dismiss a petition filed under ~~this~~
9 ~~section, subsection (1)~~ unless the court finds one of the following:

10 (a) ~~that~~ That the principal lacks capacity to revoke the agent's authority or the
11 power of attorney.

12 (b) That the motion is the effect of undue influence, fraud, or duress.

13 (3) Without precluding other bases on which such matters may properly be brought
14 before the court, any of the following persons may petition a court to review conduct regulated
15 by this act on the part of a person to whom a power of attorney is presented for acceptance and to
16 grant appropriate relief:

17 (a) The principal or the agent.

18 (b) A guardian, conservator, or other court-appointed fiduciary acting for the
19 principal.

20 **SECTION 117. AGENT'S LIABILITY.**

21 (1) An agent ~~that~~ who violates this ~~[act]~~ is liable to the principal or the principal's
22 successors in interest for the amount required to:

23 ~~(1)~~ restore the value of the principal's property to what it would have been had the

1 violation not occurred; ~~and~~
2 ~~—— (2) reimburse the principal or the principal's successors in interest for the including~~
3 ~~reimbursement of~~ attorney's fees and costs paid on the agent's behalf ~~in the defense of conduct~~
4 ~~constituting or contributing to the violation.~~

5 ~~—— (2) If an agent embezzles or wrongfully converts the principal's property, or refuses,~~
6 ~~without colorable claim of right, to transfer possession of the principal's property to the principal~~
7 ~~or the principal's successors in interest upon demand, the agent is liable in an action brought by~~
8 ~~the principal or the principal's successors in interest for treble the value of any property~~
9 ~~embezzled, converted, or wrongfully withheld from the principal or the principal's successors in~~
10 ~~interest.~~

11 **SECTION 118. AGENT'S RESIGNATION; NOTICE.** Unless the power of attorney
12 provides a different method for an agent's resignation, an agent may resign by giving notice to
13 the principal ~~and, provided that~~ if the principal is incapacitated, ~~notice shall be given as follows:~~

14 ~~(1a) to To the [conservator or guardian], if one has been appointed for the principal, and~~
15 ~~to a coagent or successor agent; or.~~

16 ~~(2b) To a coagent or successor agent if a conservator or guardian has not been appointed~~
17 ~~for the principal.~~

18 ~~—— (c) if If~~ there is no person described in paragraph ~~(1a)~~ or paragraph (b), to one of the
19 following:

20 ~~(A) the principal's A~~ caregiver;

21 ~~—— (B) of the principal who is reasonably believed by the agent to have a significant~~
22 ~~interest in the principal's welfare or~~ another person who is reasonably believed by the agent to
23 have ~~sufficient such an~~ interest in the principal's welfare; ~~or.~~

1 (Eii) ~~a~~-A governmental agency having authority to protect the welfare of the
2 principal.

3 **SECTION 119. ACCEPTANCE OF AND RELIANCE UPON ACKNOWLEDGED**
4 **POWER OF ATTORNEY.**

5 ~~(a1) For purposes of this section and Section 120, “acknowledged” means purportedly~~
6 ~~verified before a notary public or other individual authorized to take acknowledgements.~~

7 ~~———(b)~~ A person ~~that who~~ in good faith accepts an acknowledged power of attorney without
8 actual knowledge that the signature is not genuine may rely upon the presumption under ~~Section~~
9 ~~section~~ 105(4) that the signature is genuine.

10 (e2) A person ~~that who~~ in good faith accepts ~~an acknowledged~~ a power of attorney ~~that is~~
11 ~~either an acknowledged power or a vintage durable power~~ without actual knowledge that the
12 power-~~of attorney~~ is void, invalid, or terminated, that the purported agent’s authority is void,
13 invalid, or terminated, or that the agent is exceeding ~~or improperly exercising~~ the agent’s
14 authority may rely upon the power-~~of attorney~~ as if the power-~~of attorney~~ were genuine, valid,
15 and still in effect, the agent’s authority were genuine, valid, and still in effect, and the agent had
16 not exceeded and had properly exercised the authority. ~~This subsection applies regardless of~~
17 ~~whether the purported agent under a durable power has executed an acknowledgement that~~
18 ~~complies with section 113(2) or any similar requirement under prior law.~~

19 ~~(3) If a power of attorney that is durable is presented for acceptance without an agent’s~~
20 ~~acknowledgement that complies with section 113(2) and is signed by the agent who is to act on~~
21 ~~the principal’s behalf in the transaction in question, a person who is asked to accept the power~~
22 ~~may require that the agent provide such an acknowledgement before accepting the power.~~

23 (d4) A person ~~that who~~ is asked to accept an acknowledged power of attorney may

1 request, and may rely, without further investigation, upon, any of the following~~without further~~
2 ~~investigation:~~

3 (1a) ~~an agent's~~A certification under penalty of perjury by an agent or an attorney
4 at law who represents either the agent or the principal of any factual matter concerning the
5 principal, agent, or power of attorney;

6 (2b) an English translation of the power of attorney if the power ~~of attorney~~
7 contains, in whole or in part, language other than English and the translation's accuracy is the
8 subject of either a certification or an opinion of counsel;~~and.~~

9 (3c) ~~an~~An opinion of counsel as to any matter of law concerning the power of
10 attorney if the person ~~making the~~requesting the opinion ~~provides~~explains the reason for the
11 request in a ~~writing or other~~record ~~the reason for the request.~~

12 (e5) Except as provided in subsection (6), An-an English translation or an opinion of
13 counsel requested under this section must be provided at the principal's expense unless the
14 request is made more than seven business days after the power of attorney is presented for
15 acceptance.

16 (6) If a person who is asked to accept an acknowledged power of attorney requests an
17 opinion of counsel under subsection (3), and a court finds that the reason for the request as stated
18 in the required record is frivolous, the person making the request is subject to liability for
19 attorney's fees and costs incurred in providing the requested opinion. In deciding whether the
20 stated reason for the request is frivolous, the court shall consider, in addition to other relevant
21 factors, whether, in light of the language of the power, the provisions of this act, and the
22 surrounding circumstances, there is arguable merit to the legal concern that the request
23 addresses.

1 the acknowledged power presented.

2 (b) An additional or different form of agent's acknowledgement if an
3 acknowledgement that complies with section 113(2) and is signed by the agent who is to act on
4 the principal's behalf in the transaction in question is presented with the acknowledged power
5 presented or in response to a request pursuant to section 119(3).

6 ~~———~~(2) Except as otherwise provided in subsection (3), if a person requests an agent's
7 acknowledgement pursuant to section 119(3) or a certification, a translation, or an opinion of
8 counsel under ~~Section-section~~ 119(~~d4~~), the person shall accept the power of attorney no later than
9 five business days after receipt of the requested agent's acknowledgement, certification,
10 translation, or opinion of counsel or, if more than one such item has been timely requested in
11 response to the same presentation, five business days after the requesting person has received all
12 of the items timely requested; and

13 ~~———~~(3) ~~a person may not require an additional or different form of power of attorney~~
14 ~~for authority granted in the power of attorney presented.~~

15 (b3) A person is not required to accept ~~an acknowledged~~ a power of attorney if any of the
16 following applies:

17 (1a) ~~the~~ The person is not ~~otherwise~~ required to engage in a transaction with the
18 principal in the same circumstances;.

19 (2b) ~~engaging~~ Engaging in a transaction with the agent or the principal in the
20 same circumstances would be inconsistent with federal law or with guidance issued by a federal
21 regulatory agency to whose jurisdiction the person is subject;

22 (3c) ~~the~~ The person has actual knowledge of the termination of the agent's
23 authority or of the power of attorney before exercise of the power;.

1 (d) ~~a~~The person's timely request for an agent's acknowledgement pursuant to
2 section 119(3) or a certification, ~~a~~translation, or ~~an~~opinion of counsel under ~~Section~~section
3 119(~~d4~~) is refused;

4 (e) ~~the~~The person in good faith believes that the power is not valid or that the
5 agent does not have the authority to perform the act requested, whether or not an agent's
6 acknowledgement pursuant to section 119(3) or a certification, ~~a~~translation, or ~~an~~opinion of
7 counsel under ~~Section~~section 119(~~d4~~) has been requested or provided; ~~or~~.

8 (f) ~~the~~The person in good faith makes, or has actual knowledge that another
9 person has made, a report to the ~~[local~~adult protective services office] stating a good faith belief
10 that the principal may be subject to physical or financial abuse, neglect, exploitation, or
11 abandonment by the agent or a person acting for or with the agent.

12 (g) The person is a "financial institution" within the meaning of the financial
13 exploitation prevention act, 344 PA 2020, MCL _____ to _____, and the person is, at the
14 time in question, delaying or placing a freeze on transactions or assets relative to the principal
15 pursuant to that act.

16 (e4) A person ~~that~~who refuses in violation of this section to accept an acknowledged
17 power of attorney is subject to:

18 ~~_____ (1) a court order mandating acceptance of the power of attorney; and~~

19 ~~_____ (2) liability for reasonable attorney's fees and costs incurred in any action or~~
20 ~~proceeding that confirms the validity of the power of attorney or mandates acceptance of the~~
21 ~~power of attorney.~~

22 (5) A person who refuses in violation of this section to accept an acknowledged power of
23 attorney after having requested and received a certification, a translation, or an opinion of

1 counsel under section 119(4) is subject, in addition to liability described in subsection (4), to
2 liability for reasonable attorney’s fees and costs incurred in providing the requested certification,
3 translation, or opinion of counsel.

4 (6) For purposes of this section, “acknowledged” means that term as defined in section
5 119(7).

6 **Alternative B**

7 ~~SECTION 120. LIABILITY FOR REFUSAL TO ACCEPT ACKNOWLEDGED~~
8 ~~STATUTORY FORM POWER OF ATTORNEY.~~

9 ~~(a) In this section, “statutory form power of attorney” means a power of attorney~~
10 ~~substantially in the form provided in Section 301 or that meets the requirements for a military~~
11 ~~power of attorney pursuant to 10 U.S.C. Section 1044b [, as amended].~~

12 ~~(b) Except as otherwise provided in subsection (c):~~

13 ~~(1) a person shall either accept an acknowledged statutory form power of~~
14 ~~attorney or request a certification, a translation, or an opinion of counsel under Section 119(d) no~~
15 ~~later than seven business days after presentation of the power of attorney for acceptance;~~

16 ~~(2) if a person requests a certification, a translation, or an opinion of counsel~~
17 ~~under Section 119(d), the person shall accept the statutory form power of attorney no later than~~
18 ~~five business days after receipt of the certification, translation, or opinion of counsel; and~~

19 ~~(3) a person may not require an additional or different form of power of attorney~~
20 ~~for authority granted in the statutory form power of attorney presented.~~

21 ~~(c) A person is not required to accept an acknowledged statutory form power of attorney~~
22 ~~if:~~

23 ~~(1) the person is not otherwise required to engage in a transaction with the~~

1 ~~principal in the same circumstances;~~

2 ~~—————(2) engaging in a transaction with the agent or the principal in the same~~
3 ~~circumstances would be inconsistent with federal law;~~

4 ~~—————(3) the person has actual knowledge of the termination of the agent’s authority or~~
5 ~~of the power of attorney before exercise of the power;~~

6 ~~—————(4) a request for a certification, a translation, or an opinion of counsel under~~
7 ~~Section 119(d) is refused;~~

8 ~~—————(5) the person in good faith believes that the power is not valid or that the agent~~
9 ~~does not have the authority to perform the act requested, whether or not a certification, a~~
10 ~~translation, or an opinion of counsel under Section 119(d) has been requested or provided; or~~

11 ~~—————(6) the person makes, or has actual knowledge that another person has made, a~~
12 ~~report to the [local adult protective services office] stating a good faith belief that the principal~~
13 ~~may be subject to physical or financial abuse, neglect, exploitation, or abandonment by the agent~~
14 ~~or a person acting for or with the agent.~~

15 ~~————(d) A person that refuses in violation of this section to accept an acknowledged statutory~~
16 ~~form power of attorney is subject to:~~

17 ~~—————(1) a court order mandating acceptance of the power of attorney; and~~

18 ~~—————(2) liability for reasonable attorney’s fees and costs incurred in any action or~~
19 ~~proceeding that confirms the validity of the power of attorney or mandates acceptance of the~~
20 ~~power of attorney.~~

21 **~~End of Alternatives~~**

22
23 **SECTION 121. PRINCIPLES OF COMMON LAW AND EQUITY.** Unless
24 displaced by a provision of this [act], ~~the~~ principles of common law and equity supplement this

1 {act}.

2 **SECTION 122. LAWS APPLICABLE TO FINANCIAL INSTITUTIONS AND**

3 **CERTAIN OTHER ENTITIES.** This {act} does not supersede any other law applicable to
4 financial institutions or other regulated entities, and ~~the-such~~ other law controls ~~if-to the extent it~~
5 is inconsistent with this {act}.

6 **SECTION 123. REMEDIES UNDER OTHER LAW.** The remedies under this {act}
7 are not exclusive and do not abrogate any right or remedy under the law of this state other than
8 this {act}.

9 **{ARTICLE} 2**

10 **AUTHORITY**

11 **SECTION 201. AUTHORITY THAT REQUIRES SPECIFIC GRANT; GRANT**
12 **OF GENERAL AUTHORITY.**

13 (a1) An agent under a power of attorney may do the following on behalf of the principal
14 or with the principal's property only if the power ~~of attorney~~ expressly grants the agent the
15 authority and exercise of the authority is not ~~otherwise~~ prohibited by another agreement or
16 instrument to which the authority or property is subject or the authority is granted by judicial
17 order:

18 (1a) ~~create~~Create, amend, revoke, or terminate an inter vivos trust;.

19 (2b) ~~make~~Make a gift;.

20 (3c) ~~create~~Create or change rights of survivorship;.

21 (4d) ~~create~~Create or change a beneficiary designation;.

22 (5e) ~~delegate~~Delegate authority granted under the power of attorney;.

23 (6f) ~~waive~~Waive the principal's right to be a beneficiary of a joint and survivor

1 annuity, including a survivor benefit under a retirement plan;~~or~~.

2 ~~(7g) exercise-Exercise~~ fiduciary powers that the principal has authority to

3 delegate~~;~~~~or~~.

4 ~~(8h) exercise-Exercise~~ authority over the content of electronic communications, as

5 defined in 18 U.S.C. ~~Section-section~~ 2510(12)~~;~~~~as amended~~ sent or received by the principal~~;~~

6 ~~or~~

7 ~~_____ (9) disclaim property, including a power of appointment~~.

8 ~~_____ (i) Exercise authority over any “bank, securities, or other financial account in a~~

9 ~~foreign country” within the meaning of 31 CFR 1010.350.~~

10 ~~(b2)~~ Notwithstanding a grant of authority to do an act described in subsection ~~(a1)~~,

11 unless the power of attorney ~~otherwise~~ provides ~~otherwise~~, an agent ~~that-who~~ is not an ancestor,

12 spouse, or descendant of the principal~~;~~ may not exercise authority under a power of attorney to

13 create in the agent, or in an individual to whom the agent owes a legal obligation of support, an

14 interest in the principal’s property, whether by gift, right of survivorship, beneficiary

15 designation, disclaimer, or otherwise. ~~The terms of a power of attorney may expand or narrow~~

16 ~~the class of agents permitted by this subsection to create in the agent, or in an individual to~~

17 ~~whom the agent owes a legal obligation of support, an interest in the principal’s property.~~

18 ~~(e3)~~ Subject to subsections ~~(a1)~~, ~~(b2)~~, ~~(d4)~~, and ~~(e5)~~, if a power of attorney grants to an

19 agent authority to do all acts that a principal could do, the agent has the general authority

20 described in ~~Sections-sections~~ 204 ~~through-to~~ 216.

21 ~~(d4)~~ Unless the power of attorney ~~otherwise~~ provides ~~otherwise~~, a grant of authority to

22 make a gift is subject to ~~Section-section~~ 217.

23 ~~(e5)~~ Subject to subsections ~~(a1)~~, ~~(b2)~~, and ~~(d4)~~, if the subjects over which authority is

1 granted ~~in-by~~ a power of attorney are similar or overlap, the broadest authority controls.

2 (~~f~~6) Authority granted in a power of attorney is exercisable with respect to property that
3 the principal has when the power ~~of attorney~~ is executed or acquires later, whether or not the
4 property is located in this state and whether or not the authority is exercised or the power ~~of~~
5 ~~attorney~~ is executed in this state.

6 (~~g~~7) An act performed by an agent pursuant to a power of attorney has the same effect
7 and inures to the benefit of and binds the principal and the principal's successors in interest as if
8 the principal had performed the act.

9 **SECTION 202. INCORPORATION OF AUTHORITY.**

10 (~~a~~1) An agent has authority described in this [article] if the power of attorney does either
11 of the following:

12 ~~_____ (a) refers to general authority with respect to the descriptive term for the subjects~~
13 ~~stated in Sections 204 through 217 or cites Cites~~ the section in which the authority is described.

14 ~~_____ (b) Refers to general authority by the descriptive term, for example, "real~~
15 ~~property" or "tangible personal property," used in this article to indicate the subject of any of the~~
16 ~~sections 204 to 217.~~

17 (~~b~~2) A ~~reference in a~~ power of attorney that incorporates by reference to general
18 ~~authority with respect to the descriptive term for a subject in Sections 204 through 217 or a~~
19 ~~citation to any~~ section of ~~Sections sections~~ 204 ~~through to~~ 217 pursuant to subsection (1)
20 incorporates the entire section as if ~~it that section~~ were set out in full in the power ~~of attorney~~.

21 (~~e~~3) A principal may modify authority incorporated by reference.

22 **SECTION 203. CONSTRUCTION OF AUTHORITY GENERALLY.** Except as

23 otherwise provided in the power of attorney, by executing a power ~~of attorney~~ that incorporates

1 by reference a subject described in ~~Sections-sections~~ 204 ~~through to~~ 217 pursuant to section 202
2 or that grants to an agent authority to do all acts that a principal could do pursuant to Section
3 section 201(e3), a principal authorizes the agent, with respect to that subject, to do all the
4 following:

5 (1a) ~~demand~~Demand, receive, and obtain by litigation or otherwise, money or another
6 thing of value to which the principal is, may become, or claims to be entitled, and conserve,
7 invest, disburse, or use anything so received or obtained for the purposes intended~~;~~.

8 (2b) ~~contract~~Contract in any manner with any person, on terms agreeable to the agent, to
9 accomplish a purpose of a transaction and perform, rescind, cancel, terminate, reform, restate,
10 release, or modify the contract or another contract made by or on behalf of the principal~~;~~.

11 (3c) ~~execute~~Execute, acknowledge, seal, deliver, file, or record any instrument or
12 communication the agent considers desirable to accomplish a purpose of a transaction, including
13 creating at any time a schedule listing some or all of the principal's property and attaching it to
14 the power of attorney~~;~~.

15 (4d) ~~initiate~~Initiate, participate in, submit to alternative dispute resolution, settle, oppose,
16 or propose or accept a compromise with respect to a claim existing in favor of or against the
17 principal or intervene in litigation relating to the claim~~;~~.

18 (5e) ~~seek~~Seek on the principal's behalf the assistance of a court or other governmental
19 agency to carry out an act authorized in the power of attorney~~;~~.

20 (6f) ~~engage~~Engage, compensate, and discharge an attorney, accountant, discretionary
21 investment manager, expert witness, or other advisor~~;~~.

22 (7g) ~~prepare~~Prepare, execute, and file a record, report, or other document to safeguard or
23 promote the principal's interest under a statute or regulation~~;~~.

1 ~~(8h) communicate~~Communicate with any representative or employee of a government
2 or governmental subdivision, agency, or instrumentality, on behalf of the principal~~;~~.

3 ~~(9i) access~~Access communications intended for, and communicate on behalf of the
4 principal, whether by mail, electronic transmission, telephone, or other means~~;~~and.

5 ~~(10j) do~~Do any lawful act with respect to the subject and all property related to the
6 subject.

7 **SECTION 204. REAL PROPERTY.** A power of attorney that authorizes the agent to
8 convey or otherwise exercise power over real property does not need to contain the real
9 property's legal description. Unless the power of attorney~~otherwise~~ provides otherwise, language
10 in a power~~of attorney~~ granting general authority with respect to real property authorizes the
11 agent to do all the following:

12 ~~(1a) demand~~Demand, buy, lease, receive, accept as a gift or as security for an extension
13 of credit, or otherwise acquire or reject an interest in real property or a right incident to real
14 property~~;~~.

15 ~~(2b) sell~~Sell; exchange; convey with or without covenants, representations, or
16 warranties; quitclaim; release; surrender; retain title for security; encumber; partition; consent to
17 partitioning; subject to an easement or covenant; subdivide; apply for zoning or other
18 governmental permits; plat or consent to platting; develop; grant an option concerning; lease;
19 sublease; contribute to an entity in exchange for an interest in that entity; or otherwise grant or
20 dispose of an interest in real property or a right incident to real property~~;~~.

21 ~~(3c) pledge~~Pledge or mortgage an interest in real property or right incident to real
22 property as security to borrow money or pay, renew, or extend the time of payment of a debt of
23 the principal or a debt guaranteed by the principal~~;~~.

1 (4d) ~~release~~Release, assign, satisfy, or enforce by litigation or otherwise a mortgage,
2 deed of trust, conditional sale contract, encumbrance, lien, or other claim to real property which
3 exists or is asserted~~;~~.

4 (5e) ~~manage~~Manage or conserve an interest in real property or a right incident to real
5 property owned or claimed to be owned by the principal, including all of the following:

6 (Ai) ~~insuring~~Insuring against liability or casualty or other loss~~;~~.

7 (Bii) ~~obtaining~~Obtaining or regaining possession of or protecting the interest or
8 right by litigation or otherwise~~;~~.

9 (Ciii) ~~paying~~Paying, assessing, compromising, or contesting taxes or assessments
10 or applying for and receiving refunds in connection with them~~;~~ and.

11 (Div) ~~purchasing~~Purchasing supplies, hiring ~~assistance or~~ labor, and making
12 repairs or alterations to the real property~~;~~.

13 (6f) ~~use~~Use, develop, alter, replace, remove, erect, or install structures or other
14 improvements upon real property in or incident to which the principal has, or claims to have, an
15 interest or right~~;~~.

16 (7g) ~~partieipate~~Participate in a reorganization with respect to real property or an entity
17 that owns an interest in or right incident to real property and receive, and hold, and act with
18 respect to stocks and bonds or other property received in a plan of reorganization, including all
19 of the following:

20 (Ai) ~~selling~~Selling or otherwise disposing of them~~;~~.

21 (Bii) ~~exereising~~Exercising or selling an option, right of conversion, or similar
22 right with respect to them~~;~~ and.

23 (Ciii) ~~exereising~~Exercising any voting rights in person or by proxy~~;~~.

1 ~~(8h) change~~Change the form of title of an interest in or right incident to real property;

2 ~~and~~.

3 ~~(9i) dedicate~~Dedicate to public use, with or without consideration, easements or other
4 real property in which the principal has, or claims to have, an interest.

5 **SECTION 205. TANGIBLE PERSONAL PROPERTY.** Unless the power of
6 attorney~~otherwise~~ provides otherwise, language in a power~~of attorney~~ granting general
7 authority with respect to tangible personal property authorizes the agent to do all the following:

8 ~~(1a) demand~~Demand, buy, receive, accept as a gift or as security for an extension of
9 credit, or otherwise acquire or reject ownership or possession of tangible personal property or an
10 interest in tangible personal property;

11 ~~(2b) sell~~Sell; exchange; convey with or without covenants, representations, or
12 warranties; quitclaim; release; surrender; create a security interest in; grant options concerning;
13 lease; sublease; ~~or, or~~ otherwise dispose of tangible personal property or an interest in tangible
14 personal property;

15 ~~(3c) grant~~Grant a security interest in tangible personal property or an interest in tangible
16 personal property as security to borrow money or pay, renew, or extend the time of payment of a
17 debt of the principal or a debt guaranteed by the principal;

18 ~~(4d) release~~Release, assign, satisfy, or enforce by litigation or otherwise, a security
19 interest, lien, or other claim on behalf of the principal, with respect to tangible personal property
20 or an interest in tangible personal property;

21 ~~(5e) manage~~Manage or conserve tangible personal property or an interest in tangible
22 personal property on behalf of the principal, including all of the following:

23 ~~(A1) insuring~~Insuring against liability or casualty or other loss;

1 (~~Bii~~) ~~obtaining~~Obtaining or regaining possession of or protecting the property or
2 interest, by litigation or otherwise~~;~~.

3 (~~Ciii~~) ~~paying~~Paying, assessing, compromising, or contesting taxes or assessments
4 or applying for and receiving refunds in connection with taxes or assessments~~;~~.

5 (~~Div~~) ~~moving~~Moving the property from place to place~~;~~.

6 (~~Eiv~~) ~~storing~~Storing the property for hire or on a gratuitous bailment~~;~~~~and~~.

7 (~~Fvi~~) ~~using~~Using and making repairs, alterations, or improvements to the
8 property~~;~~~~and~~.

9 (~~6f~~) ~~change~~Change the form of title of an interest in tangible personal property.

10 **SECTION 206. STOCKS AND BONDS.** Unless the power of attorney~~otherwise~~
11 provides otherwise, language in a power~~of attorney~~ granting general authority with respect to
12 stocks and bonds authorizes the agent to do all the following:

13 (~~1a~~) ~~buy~~Buy, sell, and exchange stocks and bonds~~;~~.

14 (~~2b~~) ~~establish~~Establish, continue, modify, or terminate an account with respect to stocks
15 and bonds~~;~~.

16 (~~3c~~) ~~pledge~~Pledge stocks and bonds as security to borrow, pay, renew, or extend the
17 time of payment of a debt of the principal or a debt guaranteed by the principal~~;~~.

18 (~~4d~~) ~~receive~~Receive certificates and other evidences of ownership with respect to stocks
19 and bonds~~;~~~~and~~.

20 (~~5e~~) ~~exereise~~Exercise voting rights with respect to stocks and bonds in person or by
21 proxy, enter into voting trusts, and consent to limitations on the right to vote.

22 **SECTION 207. COMMODITIES AND OPTIONS.** Unless the power of attorney
23 ~~otherwise~~ provides otherwise, language in a power~~of attorney~~ granting general authority with

1 respect to commodities and options authorizes the agent to do the following:

2 (1a) ~~buy~~Buy, sell, exchange, assign, settle, and exercise commodity futures contracts and
3 call or put options on stocks or stock indexes traded on a regulated option exchange; ~~and~~.

4 (2b) ~~establish~~Establish, continue, modify, and terminate option accounts.

5 **SECTION 208. BANKS AND OTHER FINANCIAL INSTITUTIONS.** Unless the
6 power of attorney ~~otherwise~~ provides otherwise, language in a power ~~of attorney~~ granting
7 general authority with respect to banks and other financial institutions authorizes the agent to do
8 all the following:

9 (1a) ~~continue~~Continue, modify, and terminate an account or other banking arrangement
10 made by or on behalf of the principal;.

11 (2b) ~~establish~~Establish, modify, and terminate an account or other banking arrangement
12 with a bank, trust company, savings and loan association, credit union, thrift company, brokerage
13 firm, or other financial institution selected by the agent;.

14 (3c) ~~contract~~Contract for services available from a financial institution, including
15 renting a safe deposit box or space in a vault;.

16 (4d) ~~withdraw~~Withdraw, by check, order, electronic funds transfer, or otherwise, money
17 or property of the principal deposited with or left in the custody of a financial institution;.

18 (5e) ~~receive~~Receive statements of account, vouchers, notices, and similar documents
19 from a financial institution and act with respect to them;.

20 (6f) ~~enter~~Enter a safe deposit box or vault and withdraw or add to the contents;.

21 (7g) ~~borrow~~Borrow money and pledge as security personal property of the principal
22 necessary to borrow money or pay, renew, or extend the time of payment of a debt of the
23 principal or a debt guaranteed by the principal;.

1 ~~(8h)~~ makeMake, assign, draw, endorse, discount, guarantee, and negotiate promissory
2 notes, checks, drafts, and other negotiable or nonnegotiable paper of the principal or payable to
3 the principal or the principal's order, transfer money, receive the cash or other proceeds of those
4 transactions, and accept a draft drawn by a person upon the principal and pay it when due~~;~~.

5 ~~(9i)~~ receiveReceive for the principal and act upon a sight draft, warehouse receipt, or
6 other document of title whether tangible or electronic, or other negotiable or nonnegotiable
7 instrument~~;~~.

8 ~~(10j)~~ applyApply for, receive, and use letters of credit, credit and debit cards, electronic
9 transaction authorizations, and traveler's checks from a financial institution and give an
10 indemnity or other agreement in connection with letters of credit~~;~~ and.

11 ~~(11k)~~ consentConsent to an extension of the time of payment with respect to
12 commercial paper or a financial transaction with a financial institution.

13 **SECTION 209. OPERATION OF ENTITY OR BUSINESS.** Subject to the terms of
14 a document or an agreement governing an entity or an entity ownership interest, and unless the
15 power of attorney ~~otherwise~~ provides otherwise, language in a power ~~of attorney~~ granting
16 general authority with respect to operation of an entity or business authorizes the agent to do all
17 the following:

18 ~~(1a)~~ operateOperate, buy, sell, enlarge, reduce, or terminate an ownership interest~~;~~.

19 ~~(2b)~~ performPerform a duty or discharge a liability and exercise in person or by proxy a
20 right, power, privilege, or option that the principal has, may have, or claims to have~~;~~.

21 ~~(3c)~~ enforceEnforce the terms of an ownership agreement~~;~~.

22 ~~(4d)~~ initiateInitiate, participate in, submit to alternative dispute resolution, settle, oppose,
23 or propose or accept a compromise with respect to litigation to which the principal is a party

1 because of an ownership interest;

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

5 (6f) ~~initiate~~Initiate, participate in, submit to alternative dispute resolution, settle, oppose,
6 or propose or accept a compromise with respect to litigation to which the principal is a party
7 concerning stocks and bonds;

8 (7g) ~~with~~With respect to an entity or business owned solely by the principal do all of the
9 following:

10 (Ai) ~~continue~~Continue, modify, renegotiate, extend, and terminate a contract
11 made by or on behalf of the principal with respect to the entity or business before execution of
12 the power of attorney;

13 (Bii) ~~determine~~Determine all of the following:

14 (iA) ~~the~~The location of the entity or business's operation;

15 (iiB) ~~the~~The nature and extent of ~~its~~the business;

16 (iiiC) ~~the~~The methods of manufacturing, selling, merchandising,
17 financing, accounting, and advertising employed in the entity or business's operation;

18 (ivD) ~~the~~The amount and types of insurance carried; ~~and~~.

19 (vE) ~~the~~The mode of engaging, compensating, and dealing with the entity
20 or business's employees and accountants, attorneys, or other advisors;

21 (Ciii) ~~change~~Change the name or form of organization under which the entity or
22 business is operated ~~and~~or enter into an ownership agreement with other persons to take over all
23 or part of the operation of the entity or business; ~~and~~.

1 (~~D~~v) ~~demand~~Demand and receive money due or claimed by the principal or on
2 the principal's behalf in the operation of the entity or business and control and disburse the
3 money in the operation of the entity or business~~;~~.

4 (~~8~~h) ~~put~~Put additional capital into an entity or business in which the principal has an
5 interest~~;~~.

6 (~~9~~i) ~~join~~Join in a plan of reorganization, consolidation, conversion, domestication, or
7 merger of the entity or business~~;~~.

8 (~~10~~j) ~~sell~~Sell or liquidate all or part of an entity or business~~;~~.

9 (~~11~~k) ~~establish~~Establish the value of an entity or business under a buy-out agreement to
10 which the principal is a party~~;~~.

11 (~~12~~l) ~~prepare~~Prepare, sign, file, and deliver reports, compilations of information, returns,
12 or other ~~papers~~records with respect to an entity or business and make related payments~~;~~ ~~and~~.

13 (~~13~~m) ~~pay~~Pay, compromise, or contest taxes, assessments, fines, or penalties and
14 perform any other act to protect the principal from illegal or unnecessary taxation, assessments,
15 fines, or penalties, with respect to an entity or business, including attempts to recover, in any
16 manner permitted by law, money paid before or after the execution of the power of attorney.

17 **SECTION 210. INSURANCE AND ANNUITIES.** Unless the power of attorney
18 ~~otherwise~~ provides otherwise, language in a power ~~of attorney~~ granting general authority with
19 respect to insurance and annuities authorizes the agent to do all the following:

20 (~~14~~a) ~~continue~~Continue, pay the premium or make a contribution on, modify, exchange,
21 rescind, release, or terminate a contract procured by or on behalf of the principal which insures
22 or provides an annuity to either the principal or another person, whether or not the principal is a
23 beneficiary under the contract~~;~~.

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

4 ~~(3c) pay~~Pay the premium or make a contribution on, modify, exchange, rescind, release,
5 or terminate a contract of insurance or annuity procured by the agent~~;~~.

6 ~~(4d) apply~~Apply for and receive a loan secured by a contract of insurance or annuity~~;~~.

7 ~~(5e) surrender~~Surrender and receive the cash surrender value on a contract of insurance
8 or annuity~~;~~.

9 ~~(6f) exercise~~Exercise an election~~;~~.

10 ~~(7g) exercise~~Exercise investment powers available under a contract of insurance or
11 annuity~~;~~.

12 ~~(8h) change~~Change the manner of paying premiums on a contract of insurance or
13 annuity~~;~~.

14 ~~(9i) change~~Change or convert the type of insurance or annuity with respect to which the
15 principal has or claims to have authority described in this section~~;~~.

16 ~~(10j) apply~~Apply for and procure a benefit or assistance under a statute or regulation to
17 guarantee or pay premiums of a contract of insurance on the life of the principal~~;~~.

18 ~~(11k) collect~~Collect, sell, assign, hypothecate, borrow against, or pledge the interest of
19 the principal in a contract of insurance or annuity~~;~~.

20 ~~(12l) select~~Select the form and timing of the payment of proceeds from a contract of
21 insurance or annuity~~;~~and.

22 ~~(13m) pay~~Pay, from proceeds or otherwise, compromise or contest, and apply for
23 refunds in connection with, a tax or assessment levied by a taxing authority with respect to a

1 contract of insurance or annuity or its proceeds or liability accruing by reason of the tax or
2 assessment.

3 **SECTION 211. ESTATES, TRUSTS, AND OTHER BENEFICIAL INTERESTS.**

4 (a) ~~In this section, “estate, trust, or other beneficial interest” means a trust, probate~~
5 ~~estate, guardianship, conservatorship, escrow, or custodianship or a fund from which the~~
6 ~~principal is, may become, or claims to be, entitled to a share or payment.~~

7 ~~—(b) Unless the power of attorney otherwise provides otherwise, language in a power of~~
8 ~~attorney granting general authority with respect to estates, trusts, and other beneficial interests~~
9 authorizes the agent to do all the following:

10 (1a) ~~accept~~Accept, receive, receipt for, sell, assign, pledge, or exchange a share
11 in or payment from an estate, trust, or other beneficial interest;

12 (2b) ~~demand~~Demand or obtain money or another thing of value to which the
13 principal is, may become, or claims to be, entitled by reason of an estate, trust, or other beneficial
14 interest, by litigation or otherwise;

15 (3c) ~~exercise~~Except as provided in section 201(1)(a), exercise for the benefit of
16 the principal a presently exercisable general power of appointment held by the principal;

17 (4d) ~~initiate~~Initiate, participate in, submit to alternative dispute resolution, settle,
18 oppose, or propose or accept a compromise with respect to litigation to ascertain the meaning,
19 validity, or effect of a deed, will, declaration of trust, or other instrument or transaction affecting
20 the interest of the principal;

21 (5e) ~~initiate~~Initiate, participate in, submit to alternative dispute resolution, settle,
22 oppose, or propose or accept a compromise with respect to litigation to remove, substitute, or
23 surcharge a fiduciary;

1 (6f) ~~conserve~~Conserve, invest, disburse, or use anything received for an
2 authorized purpose; ~~[and]~~.

3 (7g) ~~transfer~~Transfer an interest of the principal in real property, stocks and
4 bonds, accounts with financial institutions or securities intermediaries, insurance, annuities, and
5 other property to the trustee of a revocable trust created by the principal as settlor ~~;~~ ~~and~~.

6 (8h) ~~reject~~Reject, renounce, disclaim, release, or consent to a reduction in or
7 modification of a share in or payment from an estate, trust, or other beneficial interest~~;~~.

8 (2) As used in this section, “estate, trust, or other beneficial interest” means a trust,
9 probate estate, guardianship, conservatorship, escrow, or custodianship or a fund from which the
10 principal is, may become, or claims to be, entitled to a share or payment.

11 **SECTION 212. CLAIMS AND LITIGATION.** Unless the power of attorney
12 ~~otherwise~~ provides otherwise, language in a power ~~of attorney~~ granting general authority with
13 respect to claims and litigation authorizes the agent to do all the following:

14 (1a) ~~assert~~Assert and maintain before a court or administrative agency a claim, claim for
15 relief, cause of action, counterclaim, offset, recoupment, or defense, including an action to
16 recover property or other thing of value, recover damages sustained by the principal, eliminate or
17 modify tax liability, or seek an injunction, specific performance, or other relief~~;~~.

18 (2b) ~~bring~~Bring an action to determine adverse claims or intervene or otherwise
19 participate in litigation~~;~~.

20 (3c) ~~seek~~Seek an attachment, garnishment, order of arrest, or other preliminary,
21 provisional, or intermediate relief and use an available procedure to effect or satisfy a judgment,
22 order, or decree~~;~~.

23 (4d) ~~make~~Make or accept a tender, offer of judgment, or admission of facts, submit a

1 controversy on an agreed statement of facts, consent to examination, and bind the principal in
2 litigation;

3 (~~5e~~) ~~submit~~ Submit to alternative dispute resolution, settle, and propose or accept a
4 compromise;

5 (~~6f~~) ~~waive~~ Waive the issuance and service of process upon the principal, accept service
6 of process, appear for the principal, designate persons upon ~~which~~ whom process directed to the
7 principal may be served, execute and file or deliver stipulations on the principal's behalf, verify
8 pleadings, seek appellate review, procure and give surety and indemnity bonds, contract and pay
9 for the preparation and printing of records and briefs, receive, execute, and file or deliver a
10 consent, waiver, release, confession of judgment, satisfaction of judgment, notice, agreement, or
11 other instrument in connection with the prosecution, settlement, or defense of a claim or
12 litigation;

13 (~~7g~~) ~~act~~ Act for the principal with respect to bankruptcy or insolvency, whether
14 voluntary or involuntary, concerning the principal or some other person, or with respect to a
15 reorganization, receivership, or application for the appointment of a receiver or trustee which
16 affects an interest of the principal in property or other thing of value;

17 (~~8h~~) ~~pay~~ Pay a judgment, award, or order against the principal or a settlement made in
18 connection with a claim or litigation; ~~and~~.

19 (~~9i~~) ~~receive~~ Receive money or other thing of value paid in settlement of or as proceeds of
20 a claim or litigation.

21 **SECTION 213. PERSONAL AND FAMILY MAINTENANCE.**

22 (~~a1~~) Unless the power of attorney ~~otherwise~~ provides otherwise, language in a power ~~of~~
23 ~~attorney~~ granting general authority with respect to personal and family maintenance authorizes

1 the agent to do all the following:

2 (1a) ~~perform~~Perform the acts necessary to maintain the customary standard of
3 living of the principal, the principal's spouse, and the following individuals, whether they are
4 living when the power of attorney is executed or ~~later are~~ born later:

5 (Ai) ~~the~~The principal's children~~;~~.

6 (Bii) ~~other individuals~~Individuals legally entitled to be supported by the
7 principal~~; and~~.

8 (Ciii) ~~the individuals~~Individuals whom the principal has customarily
9 supported or indicated the intent to support~~;~~.

10 (2b) ~~make~~Make periodic payments of child support and other family maintenance
11 required by a court or governmental agency or an agreement to which the principal is a party~~;~~.

12 (3c) ~~provide~~Provide living quarters for the individuals described in paragraph

13 (1a) by doing either of the following:

14 (Ai) ~~purchase~~Purchase, lease, or other contract~~;~~ ~~or~~.

15 (Bii) ~~paying~~Paying the operating costs, including interest, amortization
16 payments, repairs, improvements, and taxes, for premises owned by the principal or occupied by
17 those individuals~~;~~.

18 (4d) ~~provide~~Provide normal domestic help, usual vacations and travel expenses,
19 and funds for shelter, clothing, food, appropriate education, including postsecondary and

20 vocational education, and other current living costs for the individuals described in paragraph

21 (1a);

22 (5e) ~~pay~~Pay expenses for necessary health care and custodial care on behalf of
23 the individuals described in paragraph (1a)~~;~~.

1 (6f) ~~act-Act~~ as the principal’s personal representative pursuant to the Health
2 Insurance Portability and Accountability Act, ~~Sections-sections~~ 1171 ~~through-to~~ 1179 of the
3 Social Security Act, 42 U.S.C. ~~Section-section~~ 1320d, ~~[as-amended,]~~ and applicable regulations,
4 in making decisions related to the past, present, or future payment for the provision of health care
5 consented to by the principal or anyone authorized under the law of this state to consent to health
6 care on behalf of the principal~~;~~.

7 (7g) ~~continue-Continue~~ any provision made by the principal for automobiles or
8 other means of transportation, including registering, licensing, insuring, and replacing them, for
9 the individuals described in paragraph (4a)~~;~~.

10 (8h) ~~maintain-Maintain~~ credit and debit accounts for the convenience of the
11 individuals described in paragraph (4a) and open new accounts ~~for that purpose; and~~.

12 (9i) ~~continue-Continue~~ payments incidental to the membership or affiliation of
13 the principal in a religious institution, club, society, order, or other organization or to continue an
14 established pattern of contributions to those organizations.

15 (b2) Authority with respect to personal and family maintenance is neither dependent
16 upon, nor limited by, authority that an agent may or may not have with respect to gifts under this
17 ~~[act]~~.

18 **SECTION 214. BENEFITS FROM GOVERNMENTAL PROGRAMS OR CIVIL**
19 **OR MILITARY SERVICE.**

20 (a1) ~~In this section, “benefits from governmental programs or civil or military service”~~
21 ~~means any benefit, program or assistance provided under a statute or regulation including Social~~
22 ~~Security, Medicare, and Medicaid.~~

23 ~~—(b)~~ Unless the power of attorney ~~otherwise~~ provides otherwise, language in a power ~~of~~

1 ~~attorney~~ granting general authority with respect to benefits from governmental programs or civil
2 or military service authorizes the agent to do all the following:

3 (1a) ~~execute~~Execute vouchers in the name of the principal for allowances and
4 reimbursements payable by the United States or a foreign government or by a state or
5 subdivision of a state to the principal, including allowances and reimbursements for
6 transportation of the individuals described in ~~Section~~section 213(a1)(1a), and for shipment of
7 their household effects;

8 (2b) ~~take~~Take possession and order the removal and shipment of property of the
9 principal from a post, warehouse, depot, dock, or other place of storage or safekeeping, either
10 governmental or private, and execute and deliver a release, voucher, receipt, bill of lading,
11 shipping ticket, certificate, or other instrument for that purpose;

12 (3c) ~~enroll~~Enroll in, apply for, select, reject, change, amend, or discontinue, on
13 the principal's behalf, a benefit or program;

14 (4d) ~~prepare~~Prepare, file, and maintain a claim of the principal for a benefit or
15 assistance, financial or otherwise, to which the principal may be entitled under a statute or
16 regulation;

17 (5e) ~~initiate~~Initiate, participate in, submit to alternative dispute resolution, settle,
18 oppose, or propose or accept a compromise with respect to litigation concerning any benefit or
19 assistance the principal may be entitled to receive under a statute or regulation; ~~and~~.

20 (6f) ~~receive~~Receive the financial proceeds of a claim described in paragraph (4d)
21 and conserve, invest, disburse, or use for a lawful purpose anything so received.

22 (2) As used in this section, "benefits from governmental programs or civil or military
23 service" means any benefit, program, or other assistance provided under a statute or regulation

1 including Social Security, Medicare, and Medicaid.

2 **SECTION 215. RETIREMENT PLANS.**

3 (a) ~~In this section, “retirement plan” means a plan or account created by an employer,~~
4 ~~the principal, or another individual to provide retirement benefits or deferred compensation of~~
5 ~~which the principal is a participant, beneficiary, or owner, including a plan or account under the~~
6 ~~following sections of the Internal Revenue Code:~~

7 ~~—————(1) an individual retirement account under Internal Revenue Code Section 408,~~
8 ~~26 U.S.C. Section 408 [, as amended];~~

9 ~~—————(2) a Roth individual retirement account under Internal Revenue Code Section~~
10 ~~408A, 26 U.S.C. Section 408A [, as amended];~~

11 ~~—————(3) a deemed individual retirement account under Internal Revenue Code Section~~
12 ~~408(q), 26 U.S.C. Section 408(q) [, as amended];~~

13 ~~—————(4) an annuity or mutual fund custodial account under Internal Revenue Code~~
14 ~~Section 403(b), 26 U.S.C. Section 403(b) [, as amended];~~

15 ~~—————(5) a pension, profit sharing, stock bonus, or other retirement plan qualified~~
16 ~~under Internal Revenue Code Section 401(a), 26 U.S.C. Section 401(a) [, as amended];~~

17 ~~—————(6) a plan under Internal Revenue Code Section 457(b), 26 U.S.C. Section 457(b)~~
18 ~~[, as amended]; and~~

19 ~~—————(7) a nonqualified deferred compensation plan under Internal Revenue Code~~
20 ~~Section 409A, 26 U.S.C. Section 409A [, as amended].~~

21 ~~————(b) Unless the power of attorney otherwise provides otherwise, language in a power of~~
22 ~~attorney granting general authority with respect to retirement plans authorizes the agent to do all~~
23 ~~the following:~~

1 ~~(1a)~~ Select the form and timing of payments under a retirement plan and
2 withdraw benefits from a plan;

3 ~~(2b)~~ Make a rollover, ~~including or~~ a ~~direct~~-trustee-to-trustee
4 ~~rollover;transfer~~ of benefits from one retirement plan to another;

5 ~~(3c)~~ Establish a retirement plan in the principal's name;

6 ~~(4d)~~ Make contributions to a retirement plan;

7 ~~(5e)~~ Exercise investment powers available under a retirement plan; ~~and~~.

8 ~~(6f)~~ Borrow from, sell assets to, or purchase assets from a retirement plan
9 as permitted by the plan.

10 (2) In this section, "retirement plan" means a plan or account created by an employer, the
11 principal, or another individual to provide retirement benefits or deferred compensation of which
12 the principal is a participant, beneficiary, or owner, including a plan or account under any of the
13 following sections of the Internal Revenue Code:

14 (a) An individual retirement account under Internal Revenue Code section 408,
15 26 U.S.C. section 408.

16 (b) A Roth individual retirement account under Internal Revenue Code section
17 408A, 26 U.S.C. section 408A.

18 (c) A deemed individual retirement account under Internal Revenue Code section
19 408(q), 26 U.S.C. section 408(q).

20 (d) An annuity or mutual fund custodial account under Internal Revenue Code
21 section 403(b), 26 U.S.C. section 403(b).

22 (e) A pension, profit-sharing, stock bonus, or other retirement plan qualified
23 under Internal Revenue Code section 401(a), 26 U.S.C. section 401(a).

1 (f) A plan under Internal Revenue Code section 457(b), 26 U.S.C. section 457(b).

2 (g) A nonqualified deferred compensation plan under Internal Revenue Code
3 section 409A, 26 U.S.C. section 409A.

4 **SECTION 216. TAXES.** Unless the power of attorney ~~otherwise~~ provides otherwise,
5 language in a power ~~of attorney~~ granting general authority with respect to taxes authorizes the
6 agent to do all the following:

7 (1a) ~~prepare~~ Prepare, sign, and file federal, state, local, and foreign income, gift, payroll,
8 property, Federal Insurance Contributions Act, and other tax returns, claims for refunds, requests
9 for extension of time, petitions regarding tax matters, and any other tax-related documents,
10 including receipts, offers, waivers, consents, including consents and agreements under Internal
11 Revenue Code ~~Section-section~~ 2032A, 26 U.S.C. ~~Section-section~~ 2032A, ~~[as amended,]~~ closing
12 agreements, and any power of attorney required by the Internal Revenue Service or other taxing
13 authority with respect to a tax year upon which the statute of limitations has not run and the
14 following 25 tax years:

15 (2b) ~~pay~~ Pay taxes due, collect refunds, post bonds, receive confidential information, and
16 contest deficiencies determined by the Internal Revenue Service or other taxing authority:

17 (3c) ~~exercise~~ Exercise any election available to the principal under federal, state, local,
18 or foreign tax law, including consent, pursuant to Internal Revenue Code section 2513, 26 U.S.C.
19 section 2513, to the splitting of one or more gifts made by the principal's spouse; and.

20 (4d) ~~act~~ Act for the principal in all tax matters for all periods before the Internal Revenue
21 Service, or other taxing authority.

22 **SECTION 217. GIFTS.**

23 (a1) ~~In this section, a gift "for the benefit of" a person includes a gift to a trust, an~~

1 ~~account under the Uniform Transfers to Minors Act (1983/1986), and a tuition savings account~~
2 ~~or prepaid tuition plan as defined under Internal Revenue Code Section 529, 26 U.S.C. Section~~
3 ~~529 [, as amended].~~

4 ~~—— (b) Unless the power of attorney otherwise provides otherwise, language in a power of~~
5 ~~attorney granting general authority with respect to gifts authorizes the agent only to:~~

6 ~~—— (1) make outright gifts of the principal's property, including by the exercise of a~~
7 ~~presently exercisable general power of appointment held by the principal, to, or for the benefit~~
8 ~~of, a person or persons, a gift of any of the principal's property, including by the exercise of a~~
9 ~~presently exercisable general power of appointment held by the principal, in an amount per~~
10 ~~donee not to exceed the annual dollar limits of the federal gift tax exclusion under Internal~~
11 ~~Revenue Code Section 2503(b), 26 U.S.C. Section 2503(b), [as amended,] without regard to~~
12 ~~whether the federal gift tax exclusion applies to the gift, or if the principal's spouse agrees to~~
13 ~~consent to a split gift pursuant to Internal Revenue Code Section 2513, 26 U.S.C. 2513, [as~~
14 ~~amended,] in an amount per donee not to exceed twice the annual federal gift tax exclusion limit;~~
15 ~~and~~

16 ~~—— (2) consent, pursuant to Internal Revenue Code Section 2513, 26 U.S.C. Section~~
17 ~~2513, [as amended,] to the splitting of a gift made by the principal's spouse in an amount per~~
18 ~~donee not to exceed the aggregate annual gift tax exclusions for both spouses.~~

19 ~~—— (c) An agent may make a gift of the principal's property only as the agent determines is~~
20 ~~consistent with the principal's objectives if actually known by the agent and, to the extent the~~
21 ~~principal's objectives are if unknown, as the agent determines is consistent with the principal's~~
22 ~~best interest based on all relevant factors, including the following:~~

23 (1a) ~~the~~ The value and nature of the principal's property;

1 (2b) ~~the~~The principal’s foreseeable obligations and need for maintenance,
2 including anticipated private-pay nursing or assisted-living care costs incurred in a facility or at
3 home.;

4 (3c) The desirability of minimizing~~minimization~~ of taxes, including income,
5 estate, inheritance, generation-skipping transfer, and gift taxes.;

6 (4d) ~~eligibility~~Eligibility for a benefit, a program, or assistance under a statute or
7 regulation, including eligibility for assistance with nursing or assisted-living care in a facility or
8 at home; and.

9 (5e) ~~the~~The principal’s personal history of making ~~or joining in making~~ gifts.

10 (2) As used in this section, a gift “for the benefit of” a person includes, without
11 limitation, a gift in trust, an account under the Michigan uniform transfers to minors act, 1998
12 PA 433, MCL 554.521 to 554.552, a tuition savings account or prepaid tuition plan as defined
13 under Internal Revenue Code section 529, 26 U.S.C. section 529, and an ABLE account as
14 defined under Internal Revenue Code section 529A, 26 U.S.C. section 529A.

15 **{ARTICLE} 3**

16 **STATUTORY FORMS**

17 **SECTION 301. STATUTORY FORM POWER OF ATTORNEY.** A document

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

20 ~~{INSERT NAME OF JURISDICTION}~~MICHIGAN

21 **STATUTORY FORM POWER OF ATTORNEY**

22 **IMPORTANT INFORMATION**

23
24
25 This power of attorney authorizes another person (your agent) to make decisions concerning
26 your property for you (the principal). It is, therefore, an important legal document, and you are

taking a serious step if you decide to make use of this form without seeking legal advice:
~~Your~~ for if the person you designate as your agent accepts authority granted under this power of attorney, the agent will be able to make decisions and act with respect to your property (including your money) ~~whether or not you are able to act for yourself~~. The meaning extent of your agent's authority over subjects listed on this form is explained in the Uniform uniform Power-power of Attorney-attorney Aet-act, 202 PA , MCL . [insert citation].

This power of attorney does not authorize the agent to make health-care decisions for you and it does not authorize the agent to exercise powers you have as a parent or guardian regarding care, custody, or property of a minor child or ward.

You should select someone you trust to serve as your agent and you should ask yourself as you review each section of this form, whether you have chosen the right person(s) to act in that capacity. If your signature on this form is notarized or witnessed as provided below, then Unless unless you specify otherwise in the Special Instructions, generally the agent's authority will generally continue until you die or revoke the power of attorney, or the agent resigns or is unable to act for you.

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

This form provides for designation of ~~one an~~ agent and successor agent(s) who serve one at a time, as opposed to coagents who serve simultaneously. If you wish to name ~~more than one agent~~ coagents, you may ~~name a coagent~~ do so in the Special Instructions. Coagents are not required to act together unless you include that requirement in the Special Instructions.

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

This power of attorney becomes effective immediately unless you state otherwise in the Special Instructions. And unless you state otherwise in the Special Instructions, this power of attorney does not revoke any other power of attorney you may have created.

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

DESIGNATION OF AGENT

I _____ name the following
(Name of Principal)

person as my agent:

Name of Agent: _____

Agent's Address: _____

Agent's Telephone Number: _____

DESIGNATION OF SUCCESSOR AGENT(S) (OPTIONAL)

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

Name of Successor Agent: _____

Successor Agent’s Address: _____

Successor Agent’s Telephone Number: _____

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

Name of Second Successor Agent: _____

Second Successor Agent’s Address: _____

Second Successor Agent’s Telephone Number: _____

GRANT OF GENERAL AUTHORITY

I grant my agent and any successor agent general authority to act for me with respect to the following subjects as defined in the uniform power of attorney act, 202 PA _____, MCL _____ to _____ Uniform Power of Attorney Act [insert citation]:

(INITIAL each subject you want to include in the agent’s general authority. If you wish to grant general authority over all of the subjectssubjects, you may simply initial “All Preceding Subjects.” ~~instead of initialing each subject.~~)

- Real Property
- Tangible Personal Property
- Stocks and Bonds
- Commodities and Options
- Banks and Other Financial Institutions
- Operation of Entity or Business
- Insurance and Annuities
- Estates, Trusts, and Other Beneficial Interests
- Claims and Litigation
- Personal and Family Maintenance
- Benefits from Governmental Programs or Civil or Military Service
- Retirement Plans
- Taxes
- All Preceding Subjects (regardless of whether any of the preceding subjects is initialed)

GRANT OF SPECIFIC AUTHORITY (OPTIONAL)

1 My agent MAY NOT do any of the following specific acts for me UNLESS I have INITIALED
2 the specific authority listed below:
3

4 ~~(CAUTION:-!~~ Granting any of the following will give your agent the authority to take actions
5 that could significantly reduce your property or change how your property is distributed at your
6 death. Furthermore, depending on the amount in one or more of the accounts mentioned in the
7 last item listed below (which refers to 31 CFR 1010.350), granting that particular power may
8 subject your agent to burdensome federal reporting obligations that are subject to stiff penalties.
9 INITIAL ONLY the specific authority you WANT to give your agent. If you have questions
10 about the wisdom of granting any specific authority to your agent, you should seek legal
11 advice before signing this form. If you are inclined to grant specific authority but doubt the
12 wisdom of granting that authority to a particular person you have designated as your agent
13 or successor agent, you should ask yourself whether you have designated the right
14 person(s).)
15

- 16 Create, amend, revoke, or terminate an inter vivos trust
17 Make a gift, ~~subject to the limitations of as limited by section 217 of the uniform power~~
18 ~~of attorney act, 202 PA __, MCL __. __ Uniform Power of Attorney Act [insert~~
19 ~~citation to Section 217 of the act]~~ and any special instructions in this power of attorney
20 Create or change rights of survivorship by, for example, creating a joint account
21 Create or change a beneficiary designation
22 Authorize another person to exercise the authority granted under this power of attorney
23 Waive the principal's right to be a beneficiary of a joint and survivor annuity, including a
24 survivor benefit under a retirement plan
25 Exercise fiduciary powers that the principal has authority to delegate
26 Access the content of electronic communications
27

28 ~~{ Exercise authority over any "bank, securities, or other financial account in a foreign~~
29 ~~country" within the meaning of 31 CFR 1010.350 Disclaim or refuse an interest in property,~~
30 ~~including a power of appointment]~~
31

32 LIMITATION ON AGENT'S AUTHORITY

33

34 Even if I have authorized my agent to make a gift (by initialing the relevant line above), An an
35 agent ~~that who~~ is not my ancestor, spouse, or descendant MAY NOT use my property to benefit
36 the agent or a person to whom the agent owes an obligation of support unless I have included
37 that authority in the Special Instructions.
38

SPECIAL INSTRUCTIONS (OPTIONAL)

You may give special instructions on the following lines.:

CAUTION! Special instructions are liable to cause ambiguities that may impair the effectiveness of this power of attorney. You are taking a solemn step if you decide to make any use of this form without seeking legal advice; you should be especially wary of providing special instructions without the benefit of legal counsel.

EFFECTIVE DATE

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

EFFECT ON PREVIOUS POWERS OF ATTORNEY

Unless I have said otherwise in the Special Instructions, the execution of this power of attorney does not revoke any prior power of attorney.

NOMINATION OF {CONSERVATOR OR GUARDIAN} (OPTIONAL)

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

Name of Nominee for {conservator or guardian} of my estate: _____

Nominee’s Address: _____

Nominee’s Telephone Number: _____

Name of Nominee for {guardian} of my person: _____

Nominee’s Address: _____

Nominee’s Telephone Number: _____

RELIANCE ON THIS POWER OF ATTORNEY

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

3
4 **SIGNATURE OF PRINCIPAL, SIGNATURES OF WITNESSES, AND**
5 **ACKNOWLEDGMENT**

6
7 **CAUTION! Unless you provide otherwise in the Special Instructions, this form will create a**
8 **“durable” power of attorney if you sign it either before a notary public (or other individual**
9 **authorized to take acknowledgements) or in the presence of two witnesses neither of whom is**
10 **designated as your agent or successor agent, both of whom sign below (and one of whom may be**
11 **the notary public or other individual authorized by law to take acknowledgments who also signs**
12 **below in his or her official capacity). The power’s being “durable” means that unless the power**
13 **is revoked or the agent’s authority is otherwise terminated beforehand, your agent’s authority**
14 **will continue during any period in which you are alive but incapacitated. If you have questions**
15 **about the wisdom of making this power durable, you should seek legal advice before**
16 **signing this form.**

17
18 **CAUTION! You have an important motivation to acknowledge your signature before a notary**
19 **public (or other individual authorized to take acknowledgements) regardless of the question of**
20 **durability (described above): doing so will make it harder, under section 120 of the uniform**
21 **power of attorney act, 202 PA __, MCL __. __, for someone to whom the power is presented**
22 **to decline to accept the power and your agent’s authority to act on your behalf.**

23
24
25 _____
26 Your Signature

_____ Date

27
28
29 _____
30 Your Name Printed

31
32 _____
33 Your Address

34
35
36 _____
37 Your Telephone Number

38
39
40
41 _____

_____ Date

42
43
44 _____

45
46 _____

1 Witness No. 1's Address

6 Witness No. 2's Signature Date

9 Witness No. 2's Name Printed

12 Witness No. 2's Address

17 State of _____
18 [County] of _____

20 This document was acknowledged before me on _____
21 (Date)

22 by _____.
23 (Name of Principal)

25 _____ (Seal, if any)

27 Signature of Notary _____

29 My commission expires: _____

31 {This document prepared by:
32 _____
33 _____ }

35 **IMPORTANT INFORMATION FOR AGENT**

36 **Agent's Duties**

37
39 When you accept ~~the~~ authority granted under this power of attorney, a special legal relationship
40 is created between you and the principal. This relationship imposes upon you legal duties that
41 continue until you resign or the power ~~of attorney~~ or your authority under it is terminated by a
42 termination event described in the uniform power of attorney act, 202 PA ____, MCL ____ to
43 ____ or revoked. You must:

- 44
45 (1) do what you know the principal reasonably expects you to do with the principal's
46 property or, if you do not know the principal's expectations, act in the principal's best
47 interest;

- 1 (2) act in good faith;
- 2 ~~(3)~~ do nothing beyond the authority granted in this power of attorney;
- 3 ~~(3)~~(4) keep a record of receipts, disbursements, and transactions made on behalf of the
- 4 principal; and
- 5 ~~(4)~~(5) disclose your identity as an agent whenever you act for the principal by, for example,
- 6 writing or printing the name of 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 (6) and if the power is “durable” in the sense described below, you must, before acting as
- 12 agent under the power, sign an acknowledgment of your duties as agent that contains all
- 13 the declarations contained in the optional template “Agent’s Acknowledgement”
- 14 provided in section 302 of the uniform power of attorney act, 202 PA ____, MCL
- 15 ____, in substantially the form of that optional template.
- 16

17 Unless the Special Instructions in this power of attorney state otherwise, you must also:

- 18
- 19 ~~(1)~~ (1) act loyally for the principal’s benefit;
- 20
- 21 (2) avoid conflicts that would impair your ability to act in the principal’s best interest;
- 22 (3) act with care, competence, and diligence;
- 23 ~~(4)~~ ~~keep a record of all receipts, disbursements, and transactions made on behalf of the~~
- 24 ~~principal;~~
- 25 ~~(5)~~ cooperate with any person ~~that who~~ has authority to make health-care decisions for the
- 26 principal to do what you know the principal reasonably expects concerning health care or,
- 27 if you do not know the principal’s expectations, to act in the principal’s best interest; and
- 28
- 29 ~~(6)~~(5) attempt, to the extent of the powers you have been granted as agent, to preserve the
- 30 principal’s estate plan if you know the plan and preserving the plan is consistent with the
- 31 principal’s best interest.
- 32

33 **Termination of Agent’s Authority**

34
35 You must stop acting on behalf of the principal if you learn of any event that terminates this
36 power of attorney or your authority under ~~this power of attorney~~. Events that terminate a power
37 of attorney or your authority to act under ~~such~~ a power-~~of attorney~~ include:

- 38
- 39
- 40 (1) death of the principal;
- 41 (2) the principal’s revocation of the power of attorney or your authority;
- 42 (3) the occurrence of a termination event stated in the power-~~of attorney~~;
- 43 (4) if the power is intended only for a specified, limited purpose, the specified purpose of the
- 44 power-~~of attorney~~ is fully accomplished; or
- 45 (5) if you are married to the principal, a legal action is filed with a court to end your
- 46 marriage, or for your legal separation, unless the Special Instructions in this power of
- 47 attorney state that such an action will not terminate your authority.
- 48

49 Statutory Duty to Acknowledge Agent’s Duties under “Durable” Power

1
2 Unless the Special Instructions in this power of attorney states otherwise, this form will create a
3 “durable” power of attorney (meaning that unless the power is revoked or your authority is
4 otherwise terminated beforehand, your authority as agent will continue during any period in
5 which the principal is alive but incapacitated) if the principal signs it either before a notary
6 public (or other individual authorized to take acknowledgements) or in the presence of two
7 witnesses neither of whom is designated as the principal’s agent or successor agent and both of
8 whom also sign the form. If this power of attorney is durable, then before you act as agent under
9 the power, you must execute an acknowledgment of your duties as agent that contains all the
10 declarations contained in the optional template “Agent’s Acknowledgement” provided in section
11 302 of the uniform power of attorney act, 202 PA __, MCL __. __, in substantially the form
12 of that optional template.

13
14 **Liability of Agent**

15
16 The meaning of the authority granted to you is defined in the uniform power of attorney act,
17 202 PA __, MCL __. __ to __. __ Uniform Power of Attorney Act [insert citation]. If you
18 violate the Uniform Power of Attorney Act [insert citation]that act or act outside the authority
19 grantedthe terms of this power, you may be liable for any damages caused by your violation.
20

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

24 **SECTION 302. AGENT’S ACKNOWLEDGEMENT.** The following optional
25 template may be used by a nominated agent under a durable power of attorney to provide the
26 acknowledgement required by section 113(2).

27 **AGENT’S ACKNOWLEDGEMENT**

28
29 I, _____, have been appointed agent for _____,
30 (Your Name) (Name of Principal)
31 the principal, under a durable power of attorney dated _____. By signing this
32 document, I acknowledge that if and when I act as agent under the power, all of the following
33 apply:

34
35 **MY DUTIES AS AGENT**

36
37 I must:

- 38
39 1. Do what I know the principal reasonably expects me to do with the principal’s
40 property or, if I do not know the principal’s expectations, act in the principal’s best
41 interest
42 2. Act in good faith
43 3. Do nothing beyond the authority granted in the durable power of attorney

- 1 4. Keep reasonable records of receipts, disbursements, and transactions I make on behalf
- 2 of the principal
- 3 5. Disclose my identity as an agent whenever I act for the principal by writing or printing
- 4 the principal’s name and signing my own name as “agent”
- 5 6. And depending on the terms of the power of attorney, I may have additional duties
- 6 described in section 114 of the uniform power of attorney act, 202 PA ____, MCL ____,
- 7 including the presumptive duties to act loyally for the principal’s benefit, avoid conflicts
- 8 of interest that would make it hard for me to act in the principal’s best interest, and act
- 9 with care, competence, and diligence

POWERS REQUIRING SPECIFIC AUTHORITY

Unless specifically provided in the durable power of attorney or by judicial order, I cannot do any of the following:

- 16 1. Create, amend, revoke, or terminate an inter vivos trust;
- 17 2. Make a gift of the principal’s property to someone else, let alone to myself
- 18 3. Create or change rights of survivorship by, for example, creating a joint account
- 19 4. Create or change a beneficiary designation
- 20 5. Delegate authority granted under the durable power of attorney
- 21 6. Exercise fiduciary powers that the principal has authority to delegate
- 22 7. Waive the principal’s right to be a beneficiary of a joint and survivor annuity
- 23 including a survivor benefit under a retirement plan
- 24 8. Exercise authority over the content of electronic communications, as defined in 18
- 25 U.S.C. section 2510(12) sent or received by the principal
- 26 9. Exercise authority over any “bank, securities, or other financial account in a foreign
- 27 country” within the meaning of 31 CFR 1010.350

TERMINATION OF MY AUTHORITY

I must stop acting on behalf of the principal if I learn of any event that terminates the durable power of attorney or my authority under the power, including the death of the principal or the principal’s revocation of either the power or my authority to act under it.

MY POTENTIAL LIABILITY AS AGENT

If I violate the uniform power of attorney act, 202 PA ____, MCL ____, to ____ or act outside the authority granted in the durable power, I may be liable to the principal or the principal’s successors for damages caused by my violation and to civil or criminal penalties. An exoneration clause in the power (if any) does not relieve me of liability for acts or omissions committed in bad faith or, in some cases, for acts or omissions committed with reckless indifference to the purposes of the power of attorney or the interests of the principal.

Signature: _____ Date: _____

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

SECTION 303. CERTIFICATION BY AGENT OR ATTORNEY AT LAW.

The following optional template may be used by an agent or an attorney at law who represents either the agent or the principal to certify facts concerning a power of attorney.

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

State of _____
[County] of _____]

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

I further ~~[certify]~~ that to my knowledge:

(1) the Principal is alive and has not revoked the Power of Attorney or the Agent'smy authority to act under the Power-~~of Attorney~~ and the Power-~~of Attorney~~ and the Agent'smy authority to act under the Power-~~of Attorney~~ have not otherwise terminated;

(2) if the Power of Attorney was drafted to become effective upon the happening of ~~an a~~ specified event or contingency, the specified event or contingency has occurred;

(3) if the AgentI was named as a successor agent, the prior agent is ~~no longer~~ unable or unwilling to serve; and

(4)

(Insert other relevant statements. You may attach separate sheets if additional space is needed.)

SIGNATURE AND ACKNOWLEDGMENT

Certifier'sAgent's Signature

Date

1 _____
2 Certifier's Agent's Name Printed

3
4 _____
5 Certifier's Capacity (as Agent, attorney at law for Agent, or attorney at law for Principal)

6
7 _____
8 Certifier's Agent's Address

9
10 _____
11 Certifier's Agent's Telephone Number

12
13 This document was acknowledged before me on _____,
14 (Date)

15 by _____
16 (Name of Certifier Agent)

17 _____ (Seal, if any)

18
19 Signature of Notary
20 My commission expires: _____

21
22 {This document prepared by:
23 _____
24 _____ }

25
26 **{ARTICLE} 4**

27 **MISCELLANEOUS PROVISIONS**

28 **SECTION 401. UNIFORMITY OF APPLICATION AND CONSTRUCTION. In**

29 applying and construing this ~~uniform~~-act, consideration ~~must~~-should be given to the need to
30 promote uniformity of the law with respect to ~~its~~-the act's subject matter among the states that
31 enact ~~it~~the uniform act on which this act is based.

32 **SECTION 402. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL**

33 **AND NATIONAL COMMERCE ACT.** This {act} modifies, limits, and supersedes the federal
34 Electronic Signatures in Global and National Commerce Act, 15 U.S.C. ~~Section-sections~~ 7001 et
35 seq.to 7006, but does not modify, limit, or supersede ~~Section-section~~ 101(c) of that act, 15 U.S.C.

1 ~~Section-section~~ 7001(c), or authorize electronic delivery of any of the notices described in
2 ~~Section-section~~ 103(b) of that act, 15 U.S.C. ~~Section-section~~ 7003(b).

3 **SECTION 403. EFFECT ON EXISTING POWERS OF ATTORNEY.** Except as
4 otherwise provided in this {act}, on {the effective date of this {act}} all of the following apply:

5 (1a) ~~this-Except as provided in subsection (c), this~~ {act} applies to a power of attorney
6 created before, on, or after {the effective date of this {act}}.

7 (2b) ~~this-This~~ {act} applies to a judicial proceeding concerning a power of attorney
8 commenced on or after {the effective date of this {act}}.

9 (3c) ~~this-This~~ {act} applies to a judicial proceeding concerning a power of attorney
10 commenced before {the effective date of this {act}} unless the court finds that application of a
11 provision of this {act} would substantially interfere with the effective conduct of the judicial
12 proceeding or prejudice the rights of a party, in which case, that provision does not apply and the
13 superseded law applies; ~~and.~~

14 (4d) ~~an-An~~ act done before {the effective date of this {act}} is not affected by this {act}.

15 **SECTION 404. REPEAL.** Sections 5501 to 5505 of the estates and protected
16 individuals code, 1998 PA 386, MCL 700.5501 to 700.5505~~The following~~ are repealed:

17 ~~—(1) [Uniform Durable Power of Attorney Act]~~

18 ~~—(2) [Uniform Statutory Form Power of Attorney Act]~~

19 ~~—(3) [Article 5, Part 5 of the Uniform Probate Code].~~

20 **SECTION 405. EFFECTIVE DATE.** This {act} takes effect _____.

ATTACHMENT 17

1 AN ACT to adopt the uniform power of attorney act.

2

3 THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

4

5 SECTION 101. SHORT TITLE. This act shall be known and may be cited as the

6 “uniform power of attorney act”.

7 SECTION 102. DEFINITIONS.

8 (1) As used in this act:

9 (a) “Actual knowledge” means knowledge in fact.

10 (b) “Agent” means a person granted authority to act for a principal under a power
11 of attorney, whether denominated an agent, attorney-in-fact, or otherwise. The term includes an
12 original agent, coagent, successor agent, and a person to which an agent’s authority is delegated.

13 (c) “Court” includes that term as defined in section 1103(j) of the estates and
14 protected individuals code, 1998 PA 386, MCL 700.1103.

15 (d) “Durable,” with respect to a power of attorney, means not terminated by the
16 principal’s incapacity.

17 (e) “Electronic” means relating to technology having electrical, digital, magnetic,
18 wireless, optical, electromagnetic, or similar capabilities.

19 (f) “Entity” means a person other than an individual.

20 (g) “General power of appointment” means that term as defined in section 2(h) of
21 the powers of appointment act of 1967, 1967 PA 224, MCL 556.112.

22 (h) “Good faith” means honesty in fact.

23 (i) “Incapacity” means inability of an individual to manage property or business
24 affairs for either of the following reasons:

25 (i) The individual has an impairment in the ability to receive and evaluate

1 information or make or communicate decisions even with the use of technological assistance.

2 (ii) The individual is any of the following:

3 (A) Missing.

4 (B) Detained, including incarcerated in a penal system.

5 (C) Outside the United States and unable to return.

6 (j) “Person” means an individual or corporation, including a fiduciary of an estate
7 or trust, a business trust, partnership, limited liability company, association, joint venture, public
8 corporation, government or governmental subdivision, agency, or instrumentality, or any other
9 legal or commercial entity.

10 (k) Unless the context requires otherwise, “power” means a power of attorney.

11 (l) “Power of attorney” means a written record that grants authority to an agent to
12 act in one or more matters on behalf of the principal, whether or not the term power of attorney is
13 used.

14 (m) A power of attorney is “presented for acceptance” upon the later to occur of
15 the following necessary conditions:

16 (i) A person other than the principal or an agent under the power in
17 question is asked by the principal or an agent under the power to take a specified action or
18 actions in reliance on the power.

19 (ii) The power of attorney itself or a copy of it is presented to and is
20 received by the person who is asked to act in reliance on the power as described in subparagraph

21 (i).

22 (n) A power of appointment that is not exercisable until the occurrence of a
23 specified event, the satisfaction of an ascertainable standard, or the passage of a specified period

1 is “presently” exercisable only after the occurrence of the specified event, the satisfaction of the
2 ascertainable standard, or the passage of the specified period. A power that is exercisable only
3 by will is not “presently” exercisable.

4 (o) “Principal” means an individual who grants authority to an agent in a power
5 of attorney.

6 (p) “Property” means anything that may be the subject of ownership, whether real
7 or personal, or legal or equitable, or any interest or right therein.

8 (q) “Record” means information that is inscribed on a tangible medium or that is
9 stored in an electronic or other medium and is retrievable in perceivable form.

10 (r) “Sign” means to do either of the following with intent to authenticate or adopt
11 a record:

12 (i) Execute or adopt a tangible symbol.

13 (ii) Attach to or logically associate with the record an electronic sound,
14 symbol, or process.

15 (s) “State” means a state of the United States, the District of Columbia, Puerto
16 Rico, the United States Virgin Islands, or any territory or insular possession subject to the
17 jurisdiction of the United States.

18 (t) “Stocks and bonds” means stocks, bonds, mutual funds, and all other types of
19 securities and financial instruments, whether held directly, indirectly, or in any other manner.

20 The term does not include commodity futures contracts and call or put options on stocks or stock
21 indexes.

22 (u) A grammatical antecedent referred to by the relative pronoun “who” need not
23 refer to an individual but may refer to anything that is a person within the meaning of this act.

1 (2) Except as otherwise provided in this subsection, a person has knowledge of a fact if
2 the person has actual knowledge of it, the person has received a notice or notification of it, or
3 from all the facts and circumstances known to the person at the time in question, the person has
4 reason to know it.

5 (a) An entity that conducts activities through one or more employees has notice
6 or knowledge of a fact involving a power of attorney, a principal, or an agent only from the time
7 the information was received by an employee conducting a transaction involving the power or
8 from the time the information would have been brought to the employee's attention if the entity
9 had exercised reasonable diligence. For this purpose, an entity exercises reasonable diligence if
10 the entity maintains reasonable routines for communicating significant information to the
11 employee conducting the transaction involving the power and there is reasonable compliance
12 with the routines. Reasonable diligence does not require an employee of the entity to
13 communicate information unless the communication is part of the individual's regular duties, or
14 the individual knows a matter concerning the transaction involving the power would be
15 materially affected by the information.

16 (b) An entity that conducts activities through one or more employees has actual
17 knowledge of a fact relating to a power of attorney, a principal, or an agent only if the employee
18 conducting the transaction involving the power has actual knowledge of the fact.

19 **SECTION 103. APPLICABILITY.** This act applies to all powers of attorney except
20 the following:

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

23 (b) A power to make health-care decisions.

1 (c) A delegation of a parent or guardian’s power regarding care, custody, or property of a
2 minor child or ward.

3 (d) A proxy or other delegation to exercise voting rights or management rights with
4 respect to an entity.

5 (e) A power created on a form prescribed by a government or governmental subdivision,
6 agency, or instrumentality for a governmental purpose.

7 **SECTION 104. LIMITED PRESUMPTION OF DURABILITY.** A power of
8 attorney created on or after the effective date of this act that is executed in accordance with
9 subsection (2) or (3) of section 105 is durable unless it expressly provides that it is terminated by
10 the incapacity of the principal. A power of attorney created on or after the effective date of this
11 act that is not executed in accordance with subsection (2) or (3) of section 105 is not durable.

12 **SECTION 105. EXECUTION OF POWER OF ATTORNEY.**

13 (1) A power of attorney created on or after the effective date of this act must be signed
14 by the principal, or in the principal’s conscious presence by another individual directed by the
15 principal to sign the principal’s name.

16 (2) To be durable, a power of attorney to which subsection (1) applies that is signed by
17 the principal must be either acknowledged by the principal before a notary public or other
18 individual authorized to take acknowledgements or signed in the presence of 2 witnesses, neither
19 of whom is an agent nominated in the power, both of whom also sign the power, and one of
20 whom may be an individual who also acts, in the principal’s execution of the power, as a notary
21 public or other individual authorized to take acknowledgements.

22 (3) To be durable, a power of attorney to which subsection (1) applies that is signed in
23 the principal’s conscious presence by another individual directed by the principal to sign the

1 principal's name must be signed in the presence of 2 witnesses as described in subsection (2),
2 regardless of whether the power is acknowledged.

3 (4) A signature on a power of attorney is presumed to be genuine if the principal
4 acknowledges the signature before a notary public or other individual authorized by law to take
5 acknowledgments.

6 (5) A signature on a power of attorney that is witnessed as described in subsection (2)
7 but is not acknowledged by the principal before a notary public or other individual authorized by
8 law to take acknowledgments is not entitled to the presumption of genuineness under subsection
9 (4), and the power is not "acknowledged" within the meaning of sections 119 and 120.

10 **SECTION 106. VALIDITY OF POWER OF ATTORNEY.**

11 (1) A power of attorney executed in this state is valid if, when the power was executed,
12 the execution complied with the requirements for the execution of a power of attorney under the
13 law of this state as it existed at that time.

14 (2) A power of attorney that is not executed in this state is valid in this state if, when the
15 power was executed, the execution complied with either of the following:

16 (a) The requirements for the execution of a power of attorney under the law of
17 the jurisdiction that determines the meaning and effect of the power pursuant to section 107 or
18 under the law of the jurisdiction in which the principal was domiciled at the time of execution.

19 (b) The requirements for a military power of attorney pursuant to 10 U.S.C.
20 section 1044b.

21 (3) Except as otherwise provided in the power of attorney or by statute other than this
22 act, a photocopy or electronically transmitted copy of an original power of attorney has the same
23 effect as the original.

1 **SECTION 107. MEANING AND EFFECT OF POWER OF ATTORNEY.** The
2 meaning and effect of a power of attorney is determined by the law of the jurisdiction indicated
3 in the power and, in the absence of an indication of jurisdiction, by the law of the jurisdiction in
4 which the power was executed.

5 **SECTION 108. NOMINATION OF CONSERVATOR OR GUARDIAN;**
6 **RELATION OF AGENT TO COURT-APPOINTED FIDUCIARY.**

7 (1) In a power of attorney, a principal may nominate a conservator or guardian of the
8 principal's estate or guardian of the principal's person for the case in which protective
9 proceedings for the principal's estate or person are begun after the principal executes the power.
10 If consistent with applicable law on priority and suitability, the court shall make its appointment
11 in accordance with the principal's most recent nomination in a power of attorney.

12 (2) If, after a principal executes a power of attorney, a court appoints a conservator or
13 guardian of the principal's estate or other fiduciary charged with the management of some or all
14 of the principal's property, both of the following apply:

15 (a) The agent is accountable to the fiduciary as well as to the principal.

16 (b) The power of attorney is not terminated, and the agent's authority continues
17 unless limited, suspended, or terminated by the court.

18 **SECTION 109. WHEN POWER OF ATTORNEY EFFECTIVE.**

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

22 (2) If a power of attorney is intended to become effective upon the occurrence of a
23 specified future event or contingency, the principal may, in the power, authorize one or more

1 persons to determine in a record that the event or contingency has occurred.

2 (3) If a power of attorney is intended to become effective upon the principal's incapacity
3 and the principal has not authorized a person to determine whether the principal is incapacitated,
4 or the person authorized is unable or unwilling to make the determination, the power becomes
5 effective upon a determination in a record by either of the following:

6 (a) A physician or licensed psychologist that the principal is incapacitated within
7 the meaning of section 102(i)(i); or

8 (b) An attorney at law, a judge, or an appropriate governmental official that the
9 principal is incapacitated within the meaning of section 102(i)(ii).

10 (4) A person authorized by the principal in the power of attorney to determine that the
11 principal is incapacitated may, to the extent necessary or convenient in making that
12 determination, act as the principal's personal representative pursuant to the Health Insurance
13 Portability and Accountability Act, sections 1171 through 1179 of the Social Security Act, 42
14 U.S.C. section 1320d, and applicable regulations, to obtain access to the principal's health-care
15 information and communicate with the principal's health-care provider.

16 **SECTION 110. TERMINATION OF POWER OF ATTORNEY OR AGENT'S**
17 **AUTHORITY.**

18 (1) A power of attorney terminates when any of the following occurs:

19 (a) The principal dies.

20 (b) In the case of a power of attorney that is not durable, the principal becomes
21 incapacitated.

22 (c) The principal revokes the power of attorney.

23 (d) An event occurs that, according to the terms of the power of attorney,

1 terminates the power.

2 (e) In the case of a power of attorney that is intended only for a specified, limited
3 purpose, the specified purpose of the power is accomplished.

4 (f) The principal revokes the agent's authority, or the agent dies, becomes
5 incapacitated, or resigns, and the power of attorney does not provide for another agent to act
6 under the power.

7 (2) An agent's authority terminates when any of the following occurs:

8 (a) The principal revokes the authority.

9 (b) The agent dies, becomes incapacitated, or resigns.

10 (c) An action is filed for the dissolution or annulment of the agent's marriage to
11 the principal or for the legal separation of the agent and the principal unless the power of
12 attorney provides otherwise.

13 (d) The power of attorney terminates.

14 (3) Unless the power of attorney provides otherwise, an agent's authority is exercisable
15 until the authority terminates under subsection (2), notwithstanding any lapse of time since the
16 execution of the power.

17 (4) Termination of an agent's authority or of a power of attorney is not effective as to the
18 agent or another person who, without actual knowledge of the termination, acts in good faith
19 under or in reliance upon the power. An act so performed, unless otherwise invalid or
20 unenforceable, binds the principal and the principal's successors in interest.

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

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

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

5 **SECTION 111. COAGENTS AND SUCCESSOR AGENTS.**

6 (1) A principal may designate two or more persons to act as coagents. Unless the power
7 of attorney provides otherwise, each coagent may exercise the authority granted in the power
8 independently.

9 (2) A principal may designate one or more successor agents for the case in which an
10 agent resigns, dies, becomes incapacitated, is not qualified to serve, or declines to serve. A
11 principal may grant authority to designate one or more successor agents to an agent or other
12 person designated by name, office, or function. Unless the power of attorney provides otherwise,
13 a successor agent has the same authority as that granted to the original agent and may not act
14 until all of the successor agent's predecessors under the terms of the power of attorney have
15 resigned, died, become incapacitated, are no longer qualified to serve, or have declined to serve.

16 (3) Except to the extent the power provides that coagents and successor agents shall be
17 liable for one another's misconduct, an agent under a given power of attorney who does not
18 participate in or conceal a breach of fiduciary duty committed by another agent who is or was
19 serving under that power, including a predecessor agent under the power, is liable for the actions
20 of the other agent only as provided in subsection (4).

21 (4) An agent serving under a given power of attorney who has knowledge of a breach or
22 imminent breach of fiduciary duty by another agent who is or was serving under that power,
23 including a predecessor agent under the power, shall notify the principal and, if the principal is

1 incapacitated, take any action reasonably appropriate in the circumstances to safeguard the
2 principal's best interest. An agent who fails to notify the principal or take action as required by
3 this subsection is liable for the reasonably foreseeable damages that could have been avoided if
4 the agent had notified the principal or taken such action.

5 **SECTION 112. REIMBURSEMENT AND COMPENSATION OF AGENT.** Unless
6 the power of attorney provides otherwise, an agent is entitled to both of the following:

- 7 (a) Reimbursement of expenses reasonably incurred on behalf of the principal.
- 8 (b) Reasonable compensation for services rendered on behalf of the principal.

9 **SECTION 113. AGENT'S ACCEPTANCE; ACKNOWLEDGEMENT OF**
10 **DUTIES.**

11 (1) Except as otherwise provided in the power of attorney, a person accepts appointment
12 as an agent under a power of attorney by exercising authority as an agent or by any other
13 assertion or conduct indicating acceptance.

14 (2) Before exercising authority under a durable power of attorney, an agent shall execute
15 an acknowledgment of the agent's duties that contains all the substantive statements contained in
16 the optional template "Agent's Acknowledgement" provided in section 302 in substantially the
17 form of that optional template.

18 (3) An agent's failure to comply with subsection (2) does not affect the agent's authority
19 to act for the principal as provided in the durable power of attorney or this act, does not alter the
20 agent's duties under the power and this act, and does not mitigate the agent's potential liability
21 for breach of those duties.

22 **SECTION 114. AGENT'S DUTIES.**

23 (1) Notwithstanding provisions to the contrary in the power of attorney, an agent who

1 has accepted appointment shall do all of the following:

2 (a) Act in accordance with reasonable expectations of the principal that are
3 actually known to the agent and, to the extent the principal's expectations are not actually
4 known, act in the principal's best interest.

5 (b) Act in good faith.

6 (c) Act only within the scope of authority granted by the principal.

7 (d) Keep reasonable records of receipts, disbursements, and transactions made by
8 the agent on behalf of the principal.

9 (2) Except as otherwise provided in the power of attorney, an agent who has accepted
10 appointment shall do all of the following:

11 (a) Act loyally for the principal's benefit.

12 (b) Act so as not to create a conflict of interest that impairs the agent's ability to
13 act impartially in the principal's best interest.

14 (c) Act with the care, competence, and diligence that a prudent person would in
15 dealing with the property of another.

16 (d) Cooperate with a person who has authority to make health-care decisions for
17 the principal to carry out reasonable expectations of the principal concerning health-care that are
18 actually known to the agent and, to the extent such expectations are not actually known, to act in
19 the principal's best interest.

20 (e) Attempt to preserve the principal's estate plan to the extent that plan is
21 actually known to the agent and preserving the plan is consistent with the principal's best interest
22 based on relevant factors including all of the following:

23 (i) The value and nature of the principal's property.

1 (ii) The principal's foreseeable obligations and need for maintenance.

2 (iii) The desirability of minimizing taxes, including income, estate,
3 inheritance, generation-skipping transfer, and gift taxes.

4 (iv) Eligibility for a benefit, a program, or assistance under a statute or
5 regulation.

6 (3) An agent who acts in good faith is not liable to any beneficiary of the principal's
7 estate plan for failure to preserve the plan.

8 (4) An agent who acts for the best interest of the principal with the care, competence,
9 and diligence that a prudent person would in dealing with the property of another is not liable
10 solely because the agent also benefits from the act or has an individual or conflicting interest in
11 relation to the property or affairs of the principal.

12 (5) If an agent is selected by the principal because of special skills or expertise possessed
13 by the agent or in reliance on the agent's representation that the agent has special skills or
14 expertise, the special skills or expertise must be considered in determining whether the agent has
15 acted with care, competence, and diligence.

16 (6) A decline in the value of the principal's property is not in itself sufficient to establish
17 a breach of fiduciary duty.

18 (7) An agent serving under a given power of attorney who has no knowledge of a breach
19 or imminent breach of fiduciary duty by another agent who is or was serving under that power
20 does not have a duty to investigate the conduct of any such coagent or predecessor agent in order
21 to rule out the possibility of any such breach.

22 (8) An agent who exercises authority to delegate to another person the authority granted
23 by the principal or who engages another person on behalf of the principal is not liable for an act,

1 error of judgment, or default of that person if the agent exercises care, competence, and diligence
2 in selecting and monitoring the person.

3 (9) Except as otherwise provided in the power of attorney, an agent is not required to
4 disclose receipts, disbursements, or transactions conducted on behalf of the principal unless
5 ordered by a court or requested by the principal, a guardian, a conservator, another fiduciary
6 acting for the principal, a governmental agency having authority to protect the welfare of the
7 principal, or, upon the death of the principal, by the personal representative or successor in
8 interest of the principal's estate. If a person who is authorized by the power of attorney or by
9 this subsection to request a disclosure described in this subsection makes such a request, the
10 agent shall comply with the request within 30 days or provide a record substantiating why
11 additional time is needed. In the latter case, the agent shall comply with the request within an
12 additional 30 days.

13 **SECTION 115. EXONERATION OF AGENT.**

14 (1) A provision in a power of attorney relieving an agent of liability for breach of duty is
15 binding on the principal and the principal's successors in interest except to the extent either of
16 the following applies:

17 (a) The provision relieves the agent of liability for breach of duty committed in
18 bad faith or, except as provided in subsection (2), with reckless indifference to the purposes of
19 the power of attorney or the best interest of the principal.

20 (b) The provision was inserted as a result of an abuse of a confidential or
21 fiduciary relationship with the principal.

22 (2) A provision in a power of attorney relieving an agent of liability under section 111(4)
23 is binding on the principal and the principal's successors in interest except to the extent that it

1 relieves the agent of liability for breach of duty committed in bad faith or was inserted as a result
2 of an abuse of a confidential or fiduciary relationship with the principal.

3 **SECTION 116. JUDICIAL RELIEF.**

4 (1) Without precluding other bases on which such matters may properly be brought
5 before the court, any of the following persons may petition a court to construe a power of
6 attorney or review the agent's conduct and grant appropriate relief:

7 (a) The principal or the agent.

8 (b) A guardian, conservator, or other fiduciary acting for the principal.

9 (c) A person who, at the time of the petition, is exercising authority to make
10 health-care decisions for the principal.

11
12 (d) An individual who, at the time of the petition, would be an heir of the
13 principal if the principal were to die intestate at that time.

14 (e) A person named as a beneficiary to receive any property, benefit, or
15 contractual right on the principal's death or as a beneficiary of a trust created by or for the
16 principal the trustee of which has a financial interest in the principal's estate.

17 (f) The personal representative of the principal's estate.

18 (g) A governmental agency having regulatory authority to protect the welfare of
19 the principal.

20 (h) A caregiver or another person who demonstrates sufficient interest in the
21 principal's welfare.

22 (i) A person asked to accept the power of attorney.

23 (2) Upon motion by the principal, the court shall dismiss a petition filed under subsection

1 (1) unless the court finds one of the following:

2 (a) That the principal lacks capacity to revoke the agent’s authority or the power
3 of attorney.

4 (b) That the motion is the effect of undue influence, fraud, or duress.

5 (3) Without precluding other bases on which such matters may properly be brought
6 before the court, any of the following persons may petition a court to review conduct regulated
7 by this act on the part of a person to whom a power of attorney is presented for acceptance and to
8 grant appropriate relief:

9 (a) The principal or the agent.

10 (b) A guardian, conservator, or other court-appointed fiduciary acting for the
11 principal.

12 **SECTION 117. AGENT’S LIABILITY.**

13 (1) An agent who violates this act is liable to the principal or the principal’s successors in
14 interest for the amount required to restore the value of the principal’s property to what it would
15 have been had the violation not occurred, including reimbursement of attorney’s fees and costs
16 paid on the agent’s behalf in the defense of conduct constituting or contributing to the violation.

17 (2) If an agent embezzles or wrongfully converts the principal’s property, or refuses,
18 without colorable claim of right, to transfer possession of the principal’s property to the principal
19 or the principal’s successors in interest upon demand, the agent is liable in an action brought by
20 the principal or the principal’s successors in interest for treble the value of any property
21 embezzled, converted, or wrongfully withheld from the principal or the principal’s successors in
22 interest.

23 **SECTION 118. AGENT’S RESIGNATION; NOTICE.** Unless the power of attorney

1 provides a different method for an agent's resignation, an agent may resign by giving notice to
2 the principal provided that if the principal is incapacitated, notice shall be given as follows:

3 (a) To the conservator or guardian if one has been appointed for the principal and to a
4 coagent or successor agent.

5 (b) To a coagent or successor agent if a conservator or guardian has not been appointed
6 for the principal.

7 (c) If there is no person described in paragraph (a) or paragraph (b), to one of the
8 following:

9 (i) A caregiver of the principal who is reasonably believed by the agent to have a
10 significant interest in the principal's welfare or another person who is reasonably believed by the
11 agent to have such an interest.

12 (ii) A governmental agency having authority to protect the welfare of the
13 principal.

14 **SECTION 119. ACCEPTANCE OF AND RELIANCE UPON ACKNOWLEDGED**
15 **POWER OF ATTORNEY.**

16 (1) A person who in good faith accepts an acknowledged power of attorney without
17 actual knowledge that the signature is not genuine may rely upon the presumption under section
18 105(4) that the signature is genuine.

19 (2) A person who in good faith accepts a power of attorney that is either an
20 acknowledged power or a vintage durable power without actual knowledge that the power is
21 void, invalid, or terminated, that the purported agent's authority is void, invalid, or terminated, or
22 that the agent is exceeding the agent's authority may rely upon the power as if the power were
23 genuine, valid, and still in effect, the agent's authority were genuine, valid, and still in effect, and

1 the agent had not exceeded and had properly exercised the authority. This subsection applies
2 regardless of whether the purported agent under a durable power has executed an
3 acknowledgement that complies with section 113(2) or any similar requirement under prior law,

4 (3) If a power of attorney that is durable is presented for acceptance without an agent's
5 acknowledgement that complies with section 113(2) and is signed by the agent who is to act on
6 the principal's behalf in the transaction in question, a person who is asked to accept the power
7 may require that the agent provide such an acknowledgement before accepting the power.

8 (4) A person who is asked to accept an acknowledged power of attorney may request and
9 may rely, without further investigation, upon any of the following:

10 (a) A certification under penalty of perjury by an agent or an attorney at law who
11 represents either the agent or the principal of any factual matter concerning the principal, agent,
12 or power of attorney.

13 (b) an English translation of the power of attorney if the power contains, in whole
14 or in part, language other than English and the translation's accuracy is the subject of either a
15 certification or an opinion of counsel.

16 (c) An opinion of counsel as to any matter of law concerning the power of
17 attorney if the person requesting the opinion explains the reason for the request in a record.

18 (5) Except as provided in subsection (6), an English translation or an opinion of counsel
19 requested under this section must be provided at the principal's expense unless the request is
20 made more than seven business days after the power of attorney is presented for acceptance.

21 (6) If a person who is asked to accept an acknowledged power of attorney requests an
22 opinion of counsel under subsection (3), and a court finds that the reason for the request as stated
23 in the required record is frivolous, the person making the request is subject to liability for

1 attorney's fees and costs incurred in providing the requested opinion. In deciding whether the
2 stated reason for the request is frivolous, the court shall consider, in addition to other relevant
3 factors, whether, in light of the language of the power, the provisions of this act, and the
4 surrounding circumstances, there is arguable merit to the legal concern that the request
5 addresses.

6 (7) For purposes of this section:

7 (a) "Acknowledged" means purportedly verified before a notary public or other
8 individual authorized to take acknowledgements.

9 (b) "Vintage durable power" means a power of attorney to which all of the
10 following apply:

11 (i) The power is valid within the meaning of section 106.

12 (ii) The power is durable under the law that validates the power within the
13 meaning of section 106.

14 (iii) The power was executed between September 30, 2012 and the
15 effective date of this act..

16 **SECTION 120. LIABILITY FOR REFUSAL TO ACCEPT ACKNOWLEDGED**
17 **POWER OF ATTORNEY.**

18 (1) Except as otherwise provided in subsection (3), a person shall either accept an
19 acknowledged power of attorney or request an agent's acknowledgement pursuant to section
20 119(3) or a certification, translation, or opinion of counsel under section 119(4) no later than
21 seven business days after the power is presented for acceptance, and a person may not require
22 either of the following:

23 (a) An additional or different form of power of attorney for authority granted in

1 the acknowledged power presented.

2 (b) An additional or different form of agent's acknowledgement if an
3 acknowledgement that complies with section 113(2) and is signed by the agent who is to act on
4 the principal's behalf in the transaction in question is presented with the acknowledged power
5 presented or in response to a request pursuant to section 119(3).

6 (2) Except as otherwise provided in subsection (3), if a person requests an agent's
7 acknowledgement pursuant to section 119(3) or a certification, translation, or opinion of counsel
8 under section 119(4), the person shall accept the power of attorney no later than five business
9 days after receipt of the requested agent's acknowledgement, certification, translation, or opinion
10 of counsel or, if more than one such item has been timely requested in response to the same
11 presentation, five business days after the requesting person has received all of the items timely
12 requested.

13 (3) A person is not required to accept a power of attorney if any of the following applies:

14 (a) The person is not required to engage in a transaction with the principal in the
15 same circumstances.

16 (b) Engaging in a transaction with the agent or the principal in the same
17 circumstances would be inconsistent with federal law or with guidance issued by a federal
18 regulatory agency to whose jurisdiction the person is subject;

19 (c) The person has actual knowledge of the termination of the agent's authority or
20 of the power of attorney before exercise of the power.

21 (d) The person's timely request for an agent's acknowledgement pursuant to
22 section 119(3) or a certification, translation, or opinion of counsel under section 119(4) is
23 refused.

1 (e) The person in good faith believes that the power is not valid or that the agent
2 does not have the authority to perform the act requested, whether or not an agent's
3 acknowledgement pursuant to section 119(3) or a certification, translation, or opinion of counsel
4 under section 119(4) has been requested or provided.

5 (f) The person in good faith makes, or has actual knowledge that another person
6 has made, a report to the adult protective services office stating a belief that the principal may be
7 subject to physical or financial abuse, neglect, exploitation, or abandonment by the agent or a
8 person acting for or with the agent.

9 (g) The person is a "financial institution" within the meaning of the financial
10 exploitation prevention act, 344 PA 2020, MCL _____.____ to _____.____, and the person is, at the
11 time in question, delaying or placing a freeze on transactions or assets relative to the principal
12 pursuant to that act.

13 (4) A person who refuses in violation of this section to accept an acknowledged power of
14 attorney is subject to a court order mandating acceptance of the power and liability for
15 reasonable attorney's fees and costs incurred in any action or proceeding that confirms the
16 validity of the power or mandates acceptance of the power.

17 (5) A person who refuses in violation of this section to accept an acknowledged power of
18 attorney after having requested and received a certification, a translation, or an opinion of
19 counsel under section 119(4) is subject, in addition to liability described in subsection (4), to
20 liability for reasonable attorney's fees and costs incurred in providing the requested certification,
21 translation, or opinion of counsel.

22 (6) For purposes of this section, "acknowledged" means that term as defined in section
23 119(7).

1 including a survivor benefit under a retirement plan.

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

3 (h) Exercise authority over the content of electronic communications, as defined
4 in 18 U.S.C. section 2510(12) sent or received by the principal.

5 (i) Exercise authority over any “bank, securities, or other financial account in a
6 foreign country” within the meaning of 31 CFR 1010.350.

7 (2) Notwithstanding a grant of authority to do an act described in subsection (1), unless
8 the power of attorney provides otherwise, an agent who is not an ancestor, spouse, or descendant
9 of the principal may not exercise authority under a power of attorney to create in the agent, or in
10 an individual to whom the agent owes a legal obligation of support, an interest in the principal’s
11 property, whether by gift, right of survivorship, beneficiary designation, disclaimer, or otherwise.
12 The terms of a power of attorney may expand or narrow the class of agents permitted by this
13 subsection to create in the agent, or in an individual to whom the agent owes a legal obligation of
14 support, an interest in the principal’s property.

15 (3) Subject to subsections (1), (2), (4), and (5), if a power of attorney grants to an agent
16 authority to do all acts that a principal could do, the agent has the general authority described in
17 sections 204 to 216.

18 (4) Unless the power of attorney provides otherwise, a grant of authority to make a gift is
19 subject to section 217.

20 (5) Subject to subsections (1), (2), and (4), if the subjects over which authority is granted
21 by a power of attorney are similar or overlap, the broadest authority controls.

22 (6) Authority granted in a power of attorney is exercisable with respect to property that
23 the principal has when the power is executed or acquires later, whether or not the property is

1 located in this state and whether or not the authority is exercised or the power is executed in this
2 state.

3 (7) An act performed by an agent pursuant to a power of attorney has the same effect and
4 inures to the benefit of and binds the principal and the principal's successors in interest as if the
5 principal had performed the act.

6 **SECTION 202. INCORPORATION OF AUTHORITY.**

7 (1) An agent has authority described in this article if the power of attorney does either of
8 the following:

9 (a) Cites the section in which the authority is described.

10 (b) Refers to general authority by the descriptive term, for example, "real
11 property" or "tangible personal property," used in this article to indicate the subject of any of the
12 sections 204 to 217.

13 (2) A power of attorney that incorporates by reference any section of sections 204 to 217
14 pursuant to subsection (1) incorporates the entire section as if that section were set out in full in
15 the power.

16 (3) A principal may modify authority incorporated by reference.

17 **SECTION 203. CONSTRUCTION OF AUTHORITY GENERALLY.** Except as
18 otherwise provided in the power of attorney, by executing a power that incorporates by reference
19 a subject described in sections 204 to 217 pursuant to section 202 or that grants to an agent
20 authority to do all acts that a principal could do pursuant to section 201(3), a principal authorizes
21 the agent, with respect to that subject, to do all the following:

22 (a) Demand, receive, and obtain by litigation or otherwise, money or another thing of
23 value to which the principal is, may become, or claims to be entitled, and conserve, invest,

1 disburse, or use anything so received or obtained for the purposes intended.

2 (b) Contract in any manner with any person, on terms agreeable to the agent, to
3 accomplish a purpose of a transaction and perform, rescind, cancel, terminate, reform, restate,
4 release, or modify the contract or another contract made by or on behalf of the principal.

5 (c) Execute, acknowledge, seal, deliver, file, or record any instrument or communication
6 the agent considers desirable to accomplish a purpose of a transaction, including creating at any
7 time a schedule listing some or all of the principal's property and attaching it to the power of
8 attorney.

9 (d) Initiate, participate in, submit to alternative dispute resolution, settle, oppose, or
10 propose or accept a compromise with respect to a claim existing in favor of or against the
11 principal or intervene in litigation relating to the claim.

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

14 (f) Engage, compensate, and discharge an attorney, accountant, discretionary investment
15 manager, expert witness, or other advisor.

16 (g) Prepare, execute, and file a record, report, or other document to safeguard or promote
17 the principal's interest under a statute or regulation.

18 (h) Communicate with any representative or employee of a government or governmental
19 subdivision, agency, or instrumentality, on behalf of the principal.

20 (i) Access communications intended for, and communicate on behalf of the principal,
21 whether by mail, electronic transmission, telephone, or other means.

22 (j) Do any lawful act with respect to the subject and all property related to the subject.

23 **SECTION 204. REAL PROPERTY.** A [power of attorney](#) that authorizes the agent to

1 convey or otherwise exercise power over real property does not need to contain the real
2 property's legal description. Unless the power of attorney provides otherwise, language in a
3 power granting general authority with respect to real property authorizes the agent to do all the
4 following:

5 (a) Demand, buy, lease, receive, accept as a gift or as security for an extension of credit,
6 or otherwise acquire or reject an interest in real property or a right incident to real property.

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

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

16 (d) Release, assign, satisfy, or enforce by litigation or otherwise a mortgage, deed of
17 trust, conditional sale contract, encumbrance, lien, or other claim to real property which exists or
18 is asserted.

19 (e) Manage or conserve an interest in real property or a right incident to real property
20 owned or claimed to be owned by the principal, including all of the following:

21 (i) Insuring against liability or casualty or other loss.

22 (ii) Obtaining or regaining possession of or protecting the interest or right by
23 litigation or otherwise.

1 (iii) Paying, assessing, compromising, or contesting taxes or assessments or
2 applying for and receiving refunds in connection with them.

3 (iv) Purchasing supplies, hiring labor, and making repairs or alterations to the
4 real property.

5 (f) Use, develop, alter, replace, remove, erect, or install structures or other improvements
6 upon real property in or incident to which the principal has, or claims to have, an interest or
7 right.

8 (g) Participate in a reorganization with respect to real property or an entity that owns an
9 interest in or right incident to real property and receive, and hold, and act with respect to stocks
10 and bonds or other property received in a plan of reorganization, including all of the following:

11 (i) Selling or otherwise disposing of them.

12 (ii) Exercising or selling an option, right of conversion, or similar right with
13 respect to them.

14 (iii) Exercising any voting rights in person or by proxy.

15 (h) Change the form of title of an interest in or right incident to real property.

16 (i) Dedicate to public use, with or without consideration, easements or other real
17 property in which the principal has, or claims to have, an interest.

18 **SECTION 205. TANGIBLE PERSONAL PROPERTY.** Unless the power of
19 attorney provides otherwise, language in a power granting general authority with respect to
20 tangible personal property authorizes the agent to do all the following:

21 (a) Demand, buy, receive, accept as a gift or as security for an extension of credit, or
22 otherwise acquire or reject ownership or possession of tangible personal property or an interest in
23 tangible personal property.

1 (b) Sell; exchange; convey with or without covenants, representations, or warranties;
2 quitclaim; release; surrender; create a security interest in; grant options concerning; lease;
3 sublease; or otherwise dispose of tangible personal property or an interest in tangible personal
4 property.

5 (c) Grant a security interest in tangible personal property or an interest in tangible
6 personal property as security to borrow money or pay, renew, or extend the time of payment of a
7 debt of the principal or a debt guaranteed by the principal.

8 (d) Release, assign, satisfy, or enforce by litigation or otherwise, a security interest, lien,
9 or other claim on behalf of the principal, with respect to tangible personal property or an interest
10 in tangible personal property.

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

13 (i) Insuring against liability or casualty or other loss.

14 (ii) Obtaining or regaining possession of or protecting the property or interest, by
15 litigation or otherwise.

16 (iii) Paying, assessing, compromising, or contesting taxes or assessments or
17 applying for and receiving refunds in connection with taxes or assessments.

18 (iv) Moving the property from place to place.

19 (v) Storing the property for hire or on a gratuitous bailment.

20 (vi) Using and making repairs, alterations, or improvements to the property.

21 (f) Change the form of title of an interest in tangible personal property.

22 **SECTION 206. STOCKS AND BONDS.** Unless the power of attorney provides
23 otherwise, language in a power granting general authority with respect to stocks and bonds

1 authorizes the agent to do all the following:

2 (a) Buy, sell, and exchange stocks and bonds.

3 (b) Establish, continue, modify, or terminate an account with respect to stocks and
4 bonds.

5 (c) Pledge stocks and bonds as security to borrow, pay, renew, or extend the time of
6 payment of a debt of the principal or a debt guaranteed by the principal.

7 (d) Receive certificates and other evidence of ownership with respect to stocks and
8 bonds.

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

11 **SECTION 207. COMMODITIES AND OPTIONS.** Unless the power of attorney
12 provides otherwise, language in a power granting general authority with respect to commodities
13 and options authorizes the agent to do the following:

14 (a) Buy, sell, exchange, assign, settle, and exercise commodity futures contracts and call
15 or put options on stocks or stock indexes traded on a regulated option exchange.

16 (b) Establish, continue, modify, and terminate option accounts.

17 **SECTION 208. BANKS AND OTHER FINANCIAL INSTITUTIONS.** Unless the
18 power of attorney provides otherwise, language in a power granting general authority with
19 respect to banks and other financial institutions authorizes the agent to do all the following:

20 (a) Continue, modify, and terminate an account or other banking arrangement made by
21 or on behalf of the principal.

22 (b) Establish, modify, and terminate an account or other banking arrangement with a
23 bank, trust company, savings and loan association, credit union, thrift company, brokerage firm,

1 or other financial institution selected by the agent.

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

4 (d) Withdraw, by check, order, electronic funds transfer, or otherwise, money or property
5 of the principal deposited with or left in the custody of a financial institution.

6 (e) Receive statements of account, vouchers, notices, and similar documents from a
7 financial institution and act with respect to them.

8 (f) Enter a safe deposit box or vault and withdraw or add to the contents.

9 (g) Borrow money and pledge as security personal property of the principal necessary to
10 borrow money or pay, renew, or extend the time of payment of a debt of the principal or a debt
11 guaranteed by the principal.

12 (h) Make, assign, draw, endorse, discount, guarantee, and negotiate promissory notes,
13 checks, drafts, and other negotiable or nonnegotiable paper of the principal or payable to the
14 principal or the principal's order, transfer money, receive the cash or other proceeds of those
15 transactions, and accept a draft drawn by a person upon the principal and pay it when due.

16 (i) Receive for the principal and act upon a sight draft, warehouse receipt, or other
17 document of title whether tangible or electronic, or other negotiable or nonnegotiable instrument.

18 (j) Apply for, receive, and use letters of credit, credit and debit cards, electronic
19 transaction authorizations, and traveler's checks from a financial institution and give an
20 indemnity or other agreement in connection with letters of credit.

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

23 **SECTION 209. OPERATION OF ENTITY OR BUSINESS.** Subject to the terms of

1 a document or an agreement governing an entity or an entity ownership interest, and unless the
2 power of attorney provides otherwise, language in a power granting general authority with
3 respect to operation of an entity or business authorizes the agent to do all the following:

4 (a) Operate, buy, sell, enlarge, reduce, or terminate an ownership interest.

5 (b) Perform a duty or discharge a liability and exercise in person or by proxy a right,
6 power, privilege, or option that the principal has, may have, or claims to have.

7 (c) Enforce the terms of an ownership agreement.

8 (d) Initiate, participate in, submit to alternative dispute resolution, settle, oppose, or
9 propose or accept a compromise with respect to litigation to which the principal is a party
10 because of an ownership interest.

11 (e) Exercise in person or by proxy, or enforce by litigation or otherwise, a right, power,
12 privilege, or option the principal has or claims to have as the holder of stocks and bonds.

13 (f) Initiate, participate in, submit to alternative dispute resolution, settle, oppose, or
14 propose or accept a compromise with respect to litigation to which the principal is a party
15 concerning stocks and bonds.

16 (g) With respect to an entity or business owned solely by the principal do all of the
17 following:

18 (i) Continue, modify, renegotiate, extend, and terminate a contract made by or on
19 behalf of the principal with respect to the entity or business before execution of the power of
20 attorney.

21 (ii) Determine all of the following:

22 (A) The location of the entity or business's operation.

23 (B) The nature and extent of the business.

1 (C) The methods of manufacturing, selling, merchandising, financing,
2 accounting, and advertising employed in the entity or business's operation.

3 (D) The amount and types of insurance carried.

4 (E) The mode of engaging, compensating, and dealing with the entity or
5 business's employees and accountants, attorneys, or other advisors.

6 (iii) Change the name or form of organization under which the entity or business
7 is operated or enter into an ownership agreement with other persons to take over all or part of the
8 operation of the entity or business.

9 (iv) Demand and receive money due or claimed by the principal or on the
10 principal's behalf in the operation of the entity or business and control and disburse the money in
11 the operation of the entity or business.

12 (h) Put additional capital into an entity or business in which the principal has an interest.

13 (i) Join in a plan of reorganization, consolidation, conversion, domestication, or merger
14 of the entity or business.

15 (j) Sell or liquidate all or part of an entity or business.

16 (k) Establish the value of an entity or business under a buy-out agreement to which the
17 principal is a party.

18 (l) Prepare, sign, file, and deliver reports, compilations of information, returns, or other
19 records with respect to an entity or business and make related payments.

20 (m) Pay, compromise, or contest taxes, assessments, fines, or penalties and perform any
21 other act to protect the principal from illegal or unnecessary taxation, assessments, fines, or
22 penalties, with respect to an entity or business, including attempts to recover, in any manner
23 permitted by law, money paid before or after the execution of the power of attorney.

1 **SECTION 210. INSURANCE AND ANNUITIES.** Unless the power of attorney
2 provides otherwise, language in a power granting general authority with respect to insurance and
3 annuities authorizes the agent to do all the following:

4 (a) Continue, pay the premium or make a contribution on, modify, exchange, rescind,
5 release, or terminate a contract procured by or on behalf of the principal which insures or
6 provides an annuity to either the principal or another person, whether or not the principal is a
7 beneficiary under the contract.

8 (b) Procure new, different, and additional contracts of insurance and annuities for the
9 principal and the principal's spouse, children, and other dependents, and select the amount, type
10 of insurance or annuity, and mode of payment.

11 (c) Pay the premium or make a contribution on, modify, exchange, rescind, release, or
12 terminate a contract of insurance or annuity procured by the agent.

13 (d) Apply for and receive a loan secured by a contract of insurance or annuity.

14 (e) Surrender and receive the cash surrender value on a contract of insurance or annuity.

15 (f) Exercise an election.

16 (g) Exercise investment powers available under a contract of insurance or annuity.

17 (h) Change the manner of paying premiums on a contract of insurance or annuity.

18 (i) Change or convert the type of insurance or annuity with respect to which the principal
19 has or claims to have authority described in this section.

20 (j) Apply for and procure a benefit or assistance under a statute or regulation to
21 guarantee or pay premiums of a contract of insurance on the life of the principal.

22 (k) Collect, sell, assign, hypothecate, borrow against, or pledge the interest of the
23 principal in a contract of insurance or annuity.

1 (l) Select the form and timing of the payment of proceeds from a contract of insurance or
2 annuity.

3 (m) Pay, from proceeds or otherwise, compromise or contest, and apply for refunds in
4 connection with, a tax or assessment levied by a taxing authority with respect to a contract of
5 insurance or annuity or its proceeds or liability accruing by reason of the tax or assessment.

6 **SECTION 211. ESTATES, TRUSTS, AND OTHER BENEFICIAL INTERESTS.**

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

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

12 (b) Demand or obtain money or another thing of value to which the principal is,
13 may become, or claims to be, entitled by reason of an estate, trust, or other beneficial interest, by
14 litigation or otherwise.

15 (c) Except as provided in section 201(1)(a), exercise for the benefit of the
16 principal a presently exercisable general power of appointment held by the principal.

17 (d) Initiate, participate in, submit to alternative dispute resolution, settle, oppose,
18 or propose or accept a compromise with respect to litigation to ascertain the meaning, validity, or
19 effect of a deed, will, declaration of trust, or other instrument or transaction affecting the interest
20 of the principal.

21 (e) Initiate, participate in, submit to alternative dispute resolution, settle, oppose,
22 or propose or accept a compromise with respect to litigation to remove, substitute, or surcharge a
23 fiduciary.

1 (f) Conserve, invest, disburse, or use anything received for an authorized
2 purpose.

3 (g) Transfer an interest of the principal in real property, stocks and bonds,
4 accounts with financial institutions or securities intermediaries, insurance, annuities, and other
5 property to the trustee of a revocable trust created by the principal as settlor.

6 (h) Reject, renounce, disclaim, release, or consent to a reduction in or
7 modification of a share in or payment from an estate, trust, or other beneficial interest.

8 (2) As used in this section, “estate, trust, or other beneficial interest” means a trust,
9 probate estate, guardianship, conservatorship, escrow, or custodianship or a fund from which the
10 principal is, may become, or claims to be, entitled to a share or payment.

11 **SECTION 212. CLAIMS AND LITIGATION.** Unless the power of attorney provides
12 otherwise, language in a power granting general authority with respect to claims and litigation
13 authorizes the agent to do all the following:

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

18 (b) Bring an action to determine adverse claims or intervene or otherwise participate in
19 litigation.

20 (c) Seek an attachment, garnishment, order of arrest, or other preliminary, provisional, or
21 intermediate relief and use an available procedure to effect or satisfy a judgment, order, or
22 decree.

23 (d) Make or accept a tender, offer of judgment, or admission of facts, submit a

1 controversy on an agreed statement of facts, consent to examination, and bind the principal in
2 litigation.

3 (e) Submit to alternative dispute resolution, settle, and propose or accept a compromise.

4 (f) Waive the issuance and service of process upon the principal, accept service of
5 process, appear for the principal, designate persons upon whom process directed to the principal
6 may be served, execute and file or deliver stipulations on the principal's behalf, verify pleadings,
7 seek appellate review, procure and give surety and indemnity bonds, contract and pay for the
8 preparation and printing of records and briefs, receive, execute, and file or deliver a consent,
9 waiver, release, confession of judgment, satisfaction of judgment, notice, agreement, or other
10 instrument in connection with the prosecution, settlement, or defense of a claim or litigation.

11 (g) Act for the principal with respect to bankruptcy or insolvency, whether voluntary or
12 involuntary, concerning the principal or some other person, or with respect to a reorganization,
13 receivership, or application for the appointment of a receiver or trustee which affects an interest
14 of the principal in property or other thing of value.

15 (h) Pay a judgment, award, or order against the principal or a settlement made in
16 connection with a claim or litigation.

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

19 **SECTION 213. PERSONAL AND FAMILY MAINTENANCE.**

20 (1) Unless the power of attorney provides otherwise, language in a power granting
21 general authority with respect to personal and family maintenance authorizes the agent to do all
22 the following:

23 (a) Perform the acts necessary to maintain the customary standard of living of the

1 principal, the principal's spouse, and the following individuals, whether they are living when the
2 power of attorney is executed or are born later:

- 3 (i) The principal's children.
- 4 (ii) Individuals legally entitled to be supported by the principal.
- 5 (iii) Individuals whom the principal has customarily supported or
6 indicated the intent to support.

7 (b) Make periodic payments of child support and other family maintenance
8 required by a court or governmental agency or an agreement to which the principal is a party.

9 (c) Provide living quarters for the individuals described in paragraph (a) by doing
10 either of the following:

- 11 (i) Purchase, lease, or other contract.
- 12 (ii) Paying the operating costs, including interest, amortization payments,
13 repairs, improvements, and taxes, for premises owned by the principal or occupied by those
14 individuals.

15 (d) Provide normal domestic help, usual vacations and travel expenses, and funds
16 for shelter, clothing, food, appropriate education, including postsecondary and vocational
17 education, and other current living costs for the individuals described in paragraph (a);

18 (e) Pay expenses for necessary health care and custodial care on behalf of the
19 individuals described in paragraph (a).

20 (f) Act as the principal's personal representative pursuant to the Health Insurance
21 Portability and Accountability Act, sections 1171 to 1179 of the Social Security Act, 42 U.S.C.
22 section 1320d, and applicable regulations, in making decisions related to the past, present, or
23 future payment for the provision of health care consented to by the principal or anyone

1 authorized under the law of this state to consent to health care on behalf of the principal.

2 (g) Continue any provision made by the principal for automobiles or other means
3 of transportation, including registering, licensing, insuring, and replacing them, for the
4 individuals described in paragraph (a).

5 (h) Maintain credit and debit accounts for the convenience of the individuals
6 described in paragraph (a) and open new accounts for that purpose.

7 (i) Continue payments incidental to the membership or affiliation of the principal
8 in a religious institution, club, society, order, or other organization or to continue an established
9 pattern of contributions to those organizations.

10 (2) Authority with respect to personal and family maintenance is neither dependent upon,
11 nor limited by, authority that an agent may or may not have with respect to gifts under this act.

12 **SECTION 214. BENEFITS FROM GOVERNMENTAL PROGRAMS OR CIVIL**
13 **OR MILITARY SERVICE.**

14 (1) Unless the power of attorney provides otherwise, language in a power granting
15 general authority with respect to benefits from governmental programs or civil or military
16 service authorizes the agent to do all the following:

17 (a) Execute vouchers in the name of the principal for allowances and
18 reimbursements payable by the United States or a foreign government or by a state or
19 subdivision of a state to the principal, including allowances and reimbursements for
20 transportation of the individuals described in section 213(1)(a), and for shipment of their
21 household effects.

22 (b) Take possession and order the removal and shipment of property of the
23 principal from a post, warehouse, depot, dock, or other place of storage or safekeeping, either

1 governmental or private, and execute and deliver a release, voucher, receipt, bill of lading,
2 shipping ticket, certificate, or other instrument for that purpose.

3 (c) Enroll in, apply for, select, reject, change, amend, or discontinue, on the
4 principal's behalf, a benefit or program.

5 (d) Prepare, file, and maintain a claim of the principal for a benefit or assistance,
6 financial or otherwise, to which the principal may be entitled under a statute or regulation.

7 (e) Initiate, participate in, submit to alternative dispute resolution, settle, oppose,
8 or propose or accept a compromise with respect to litigation concerning any benefit or assistance
9 the principal may be entitled to receive under a statute or regulation.

10 (f) Receive the financial proceeds of a claim described in paragraph (d) and
11 conserve, invest, disburse, or use for a lawful purpose anything so received.

12 (2) As used in this section, "benefits from governmental programs or civil or military
13 service" means any benefit, program, or other assistance provided under a statute or regulation
14 including Social Security, Medicare, and Medicaid.

15 **SECTION 215. RETIREMENT PLANS.**

16 (1) Unless the power of attorney provides otherwise, language in a power granting
17 general authority with respect to retirement plans authorizes the agent to do all the following:

18 (a) Select the form and timing of payments under a retirement plan and withdraw
19 benefits from a plan.

20 (b) Make a rollover or a trustee-to-trustee transfer of benefits from one retirement
21 plan to another.

22 (c) Establish a retirement plan in the principal's name.

23 (d) Make contributions to a retirement plan.

1 (e) Exercise investment powers available under a retirement plan.

2 (f) Borrow from, sell assets to, or purchase assets from a retirement plan as
3 permitted by the plan.

4 (2) In this section, “retirement plan” means a plan or account created by an employer, the
5 principal, or another individual to provide retirement benefits or deferred compensation of which
6 the principal is a participant, beneficiary, or owner, including a plan or account under any of the
7 following sections of the Internal Revenue Code:

8 (a) An individual retirement account under Internal Revenue Code section 408,
9 26 U.S.C. section 408.

10 (b) A Roth individual retirement account under Internal Revenue Code section
11 408A, 26 U.S.C. section 408A.

12 (c) A deemed individual retirement account under Internal Revenue Code section
13 408(q), 26 U.S.C. section 408(q).

14 (d) An annuity or mutual fund custodial account under Internal Revenue Code
15 section 403(b), 26 U.S.C. section 403(b).

16 (e) A pension, profit-sharing, stock bonus, or other retirement plan qualified
17 under Internal Revenue Code section 401(a), 26 U.S.C. section 401(a).

18 (f) A plan under Internal Revenue Code section 457(b), 26 U.S.C. section 457(b).

19 (g) A nonqualified deferred compensation plan under Internal Revenue Code
20 section 409A, 26 U.S.C. section 409A.

21 **SECTION 216. TAXES.** Unless the power of attorney provides otherwise, language in
22 a power granting general authority with respect to taxes authorizes the agent to do all the
23 following:

1 (a) Prepare, sign, and file federal, state, local, and foreign income, gift, payroll, property,
2 Federal Insurance Contributions Act, and other tax returns, claims for refunds, requests for
3 extension of time, petitions regarding tax matters, and any other tax-related documents, including
4 receipts, offers, waivers, consents, including consents and agreements under Internal Revenue
5 Code section 2032A, 26 U.S.C. section 2032A, closing agreements, and any power of attorney
6 required by the Internal Revenue Service or other taxing authority with respect to a tax year upon
7 which the statute of limitations has not run and the following 25 tax years.

8 (b) Pay taxes due, collect refunds, post bonds, receive confidential information, and
9 contest deficiencies determined by the Internal Revenue Service or other taxing authority.

10 (c) Exercise any election available to the principal under federal, state, local, or foreign
11 tax law, including consent, pursuant to Internal Revenue Code section 2513, 26 U.S.C. section
12 2513, to the splitting of one or more gifts made by the principal's spouse.

13 (d) Act for the principal in all tax matters for all periods before the Internal Revenue
14 Service, or other taxing authority.

15 **SECTION 217. GIFTS.**

16 (1) Unless the power of attorney provides otherwise, language in a power granting
17 general authority with respect to gifts authorizes the agent to make outright gifts of the
18 principal's property, including by the exercise of a presently exercisable general power of
19 appointment held by the principal, to, or for the benefit of, a person or persons as the agent
20 determines is consistent with the principal's objectives if actually known by the agent and, to the
21 extent the principal's objectives are unknown, as the agent determines is consistent with the
22 principal's best interest based on all relevant factors, including the following:

23 (a) The value and nature of the principal's property.

1 (b) The principal’s foreseeable obligations and need for maintenance, including
2 anticipated private-pay nursing or assisted-living care costs incurred in a facility or at home.

3 (c) The desirability of minimizing taxes, including income, estate, inheritance,
4 generation-skipping transfer, and gift taxes.

5 (d) Eligibility for a benefit, a program, or assistance under a statute or regulation,
6 including eligibility for assistance with nursing or assisted-living care in a facility or at home.

7 (e) The principal’s personal history of making gifts.

8 (2) As used in this section, a gift “for the benefit of” a person includes, without
9 limitation, a gift in trust, an account under the Michigan uniform transfers to minors act, 1998
10 PA 433, MCL 554.521 to 554.552, a tuition savings account or prepaid tuition plan as defined
11 under Internal Revenue Code section 529, 26 U.S.C. section 529, and an ABLE account as
12 defined under Internal Revenue Code section 529A, 26 U.S.C. section 529A.

13 **ARTICLE 3**

14 **STATUTORY FORMS**

15 **SECTION 301. STATUTORY FORM POWER OF ATTORNEY.** A document
16 substantially in the following form may be used to create a statutory form power of attorney that
17 has the meaning and effect prescribed by this act.

18 **MICHIGAN**

19 **STATUTORY FORM POWER OF ATTORNEY**

20 **IMPORTANT INFORMATION**

21
22
23 This power of attorney authorizes another person (your agent) to make decisions concerning
24 your property for you (the principal). It is, therefore, an important legal document, and **you are**
25 **taking a serious step if you decide to make use of this form without seeking legal advice;** for
26 if the person you designate as your agent accepts authority granted under this power of attorney,
27 the agent will be able to make decisions and act with respect to your property (including your
28 money). The extent of your agent’s authority over subjects listed on this form is explained in the

1 uniform power of attorney act, 202_ PA ___, MCL ___.__.

2
3 This power of attorney does not authorize the agent to make health-care decisions for you and it
4 does not authorize the agent to exercise powers you have as a parent or guardian regarding care,
5 custody, or property of a minor child or ward.
6

7 You should select someone you trust to serve as your agent and you should ask yourself as you
8 review each section of this form, whether you have chosen the right person(s) to act in that
9 capacity. If your signature on this form is notarized or witnessed as provided below, then unless
10 you specify otherwise in the Special Instructions, the agent’s authority will generally continue
11 until you die or revoke the power of attorney, or the agent resigns or is unable to act for you.
12

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

16 This form provides for designation of an agent and successor agent(s) who serve one at a time, as
17 opposed to coagents who serve simultaneously. If you wish to name coagents, you may do so in
18 the Special Instructions. Coagents are not required to act together unless you include that
19 requirement in the Special Instructions.
20

21 If your agent is unable or unwilling to act for you, your power of attorney will end unless you
22 have named a successor agent. You may also name a second successor agent.
23

24 This power of attorney becomes effective immediately unless you state otherwise in the Special
25 Instructions. And unless you state otherwise in the Special Instructions, this power of attorney
26 does not revoke any other power of attorney you may have created.
27

28 **If you have questions about the power of attorney or the authority it grants to your agent,**
29 **you should seek legal advice before signing this form.**
30

31 **DESIGNATION OF AGENT**

32
33 I _____ name the following

34 (Name of Principal)

35 person as my agent:

36 Name of Agent: _____

37
38 Agent’s Address: _____

39
40 Agent’s Telephone Number: _____
41

42 **DESIGNATION OF SUCCESSOR AGENT(S) (OPTIONAL)**

43
44 If my agent is unable or unwilling to act for me, I name as my successor agent:

45
46 Name of Successor Agent: _____

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Successor Agent’s Address: _____

Successor Agent’s Telephone Number: _____

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

Name of Second Successor Agent: _____

Second Successor Agent’s Address: _____

Second Successor Agent’s Telephone Number: _____

GRANT OF GENERAL AUTHORITY

I grant my agent and any successor agent general authority to act for me with respect to the following subjects as defined in the uniform power of attorney act, 202_ PA ___, MCL ___. ___ to ___. ___:

(INITIAL each subject you want to include in the agent’s general authority. If you wish to grant general authority over all of the subjects, you may simply initial “All Preceding Subjects.”)

- Real Property
- Tangible Personal Property
- Stocks and Bonds
- Commodities and Options
- Banks and Other Financial Institutions
- Operation of Entity or Business
- Insurance and Annuities
- Estates, Trusts, and Other Beneficial Interests
- Claims and Litigation
- Personal and Family Maintenance
- Benefits from Governmental Programs or Civil or Military Service
- Retirement Plans
- Taxes
- All Preceding Subjects (regardless of whether any of the preceding subjects is initialed)

GRANT OF SPECIFIC AUTHORITY (OPTIONAL)

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

CAUTION! Granting any of the following will give your agent the authority to take actions that could significantly reduce your property or change how your property is distributed at your death. Furthermore, depending on the amount in one or more of the accounts mentioned in the last item listed below (which refers to 31 CFR 1010.350), granting that particular power may

1 subject your agent to burdensome federal reporting obligations that are subject to stiff penalties.
2 INITIAL ONLY the specific authority you WANT to give your agent. **If you have questions**
3 **about the wisdom of granting any specific authority to your agent, you should seek legal**
4 **advice before signing this form. If you are inclined to grant specific authority but doubt the**
5 **wisdom of granting that authority to a particular person you have designated as your agent**
6 **or successor agent, you should ask yourself whether you have designated the right**
7 **person(s).**

- 8
- 9 Create, amend, revoke, or terminate an inter vivos trust
- 10 Make a gift as limited by section 217 of the uniform power of attorney act, 202_ PA ___,
- 11 MCL ___. ___ and any special instructions in this power of attorney
- 12 Create or change rights of survivorship by, for example, creating a joint account
- 13 Create or change a beneficiary designation
- 14 Authorize another person to exercise the authority granted under this power of attorney
- 15 Waive the principal’s right to be a beneficiary of a joint and survivor annuity, including a
- 16 survivor benefit under a retirement plan
- 17 Exercise fiduciary powers that the principal has authority to delegate
- 18 Access the content of electronic communications
- 19
- 20 Exercise authority over any “bank, securities, or other financial account in a foreign
- 21 country” within the meaning of 31 CFR 1010.350

22
23 **LIMITATION ON AGENT’S AUTHORITY**

24
25 Even if I have authorized my agent to make a gift (by initialing the relevant line above), an agent
26 who is not my ancestor, spouse, or descendant MAY NOT use my property to benefit the agent
27 or a person to whom the agent owes an obligation of support unless I have included that
28 authority in the Special Instructions.

29
30 **SPECIAL INSTRUCTIONS (OPTIONAL)**

31
32 You may give special instructions on the following lines.

33
34 **CAUTION!** Special instructions are liable to cause ambiguities that may impair the
35 effectiveness of this power of attorney. You are taking a solemn step if you decide to make *any*
36 use of this form without seeking legal advice; **you should be especially wary of providing**
37 **special instructions without the benefit of legal counsel.**

EFFECTIVE DATE

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

EFFECT ON PREVIOUS POWERS OF ATTORNEY

Unless I have said otherwise in the Special Instructions, the execution of this power of attorney does not revoke any prior power of attorney.

NOMINATION OF CONSERVATOR OR GUARDIAN (OPTIONAL)

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

Name of Nominee for conservator or guardian of my estate: _____

Nominee’s Address: _____

Nominee’s Telephone Number: _____

Name of Nominee for guardian of my person: _____

Nominee’s Address: _____

Nominee’s Telephone Number: _____

RELIANCE ON THIS POWER OF ATTORNEY

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

SIGNATURE OF PRINCIPAL, SIGNATURES OF WITNESSES, AND ACKNOWLEDGMENT

CAUTION! Unless you provide otherwise in the Special Instructions, this form will create a “durable” power of attorney if you sign it either before a notary public (or other individual authorized to take acknowledgements) or in the presence of two witnesses neither of whom is designated as your agent or successor agent, both of whom sign below (and one of whom may be the notary public or other individual authorized by law to take acknowledgments who also signs below in his or her official capacity). The power’s being “durable” means that unless the power is revoked or the agent’s authority is otherwise terminated beforehand, your agent’s authority will continue during any period in which you are alive but incapacitated. **If you have questions about the wisdom of making this power durable, you should seek legal advice before signing this form.**

1 **CAUTION!** You have an important motivation to acknowledge your signature before a notary
2 public (or other individual authorized to take acknowledgements) *regardless* of the question of
3 durability (described above): doing so will make it harder, under section 120 of the uniform
4 power of attorney act, 202_ PA ___, MCL ___. ___, for someone to whom the power is presented
5 to decline to accept the power and your agent's authority to act on your behalf.
6
7

8
9 _____
Your Signature

_____ Date

10
11 _____
Your Name Printed

12
13 _____
Your Address

14
15 _____
Your Telephone Number

16
17 _____
18 _____
19 _____
20
21
22
23 Witness No. 1's Signature

_____ Date

24
25 _____
26 Witness No. 1's Name Printed

27
28 _____
29 Witness No. 1's Address

30
31
32
33 _____
34 Witness No. 2's Signature

_____ Date

35
36 _____
37 Witness No. 2's Name Printed

38
39 _____
40 Witness No. 2's Address

41
42
43
44
45 State of _____
46 [County] of _____

This document was acknowledged before me on _____
(Date)

by _____
(Name of Principal)

(Seal, if any)

Signature of Notary _____

My commission expires: _____

This document prepared by:

IMPORTANT INFORMATION FOR AGENT

Agent’s Duties

When you accept authority granted under this power of attorney, a special legal relationship is created between you and the principal. This relationship imposes upon you legal duties that continue until you resign or the power or your authority under it is terminated by a termination event described in the uniform power of attorney act, 202_ PA ___, MCL ___.___ to ___.___. You must:

- (1) do what you know the principal reasonably expects you to do with the principal’s property or, if you do not know the principal’s expectations, act in the principal’s best interest;
- (2) act in good faith;
- (3) do nothing beyond the authority granted in this power of attorney;
- (4) keep a record of receipts, disbursements, and transactions made on behalf of the principal;
- (5) disclose your identity as an agent whenever you act for the principal by, for example, writing or printing the name of the principal and signing your own name as “agent” in the following manner:

(Principal’s Name) by (Your Signature) as Agent;

- (6) and if the power is “durable” in the sense described below, you must, before acting as agent under the power, sign an acknowledgment of your duties as agent that contains all the declarations contained in the optional template “Agent’s Acknowledgement” provided in section 302 of the uniform power of attorney act, 202_ PA ___, MCL ___.___, in substantially the form of that optional template.

Unless the Special Instructions in this power of attorney state otherwise, you must also:

- (1) act loyally for the principal’s benefit;

- 1 (2) avoid conflicts that would impair your ability to act in the principal’s best interest;
- 2 (3) act with care, competence, and diligence;
- 3 (4)
- 4 cooperate with any person who has authority to make health-care decisions for the principal to
- 5 do what you know the principal reasonably expects concerning health care or, if you do
- 6 not know the principal’s expectations, to act in the principal’s best interest; and
- 7 (5) attempt, to the extent of the powers you have been granted as agent, to preserve the
- 8 principal’s estate plan if you know the plan and preserving the plan is consistent with the
- 9 principal’s best interest.
- 10

11
12 **Termination of Agent’s Authority**

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

- 17
- 18 (1) death of the principal;
- 19 (2) the principal’s revocation of the power of attorney or your authority;
- 20 (3) the occurrence of a termination event stated in the power;
- 21 (4) if the power is intended only for a specified, limited purpose, the specified purpose of the
- 22 power is fully accomplished; or
- 23 (5) if you are married to the principal, a legal action is filed with a court to end your
- 24 marriage, or for your legal separation, unless the Special Instructions in this power of
- 25 attorney state that such an action will not terminate your authority.
- 26

27
28 **Statutory Duty to Acknowledge Agent’s Duties under “Durable” Power**

29
30 Unless the Special Instructions in this power of attorney states otherwise, this form will create a
31 “durable” power of attorney (meaning that unless the power is revoked or your authority is
32 otherwise terminated beforehand, your authority as agent will continue during any period in
33 which the principal is alive but incapacitated) if the principal signs it either before a notary
34 public (or other individual authorized to take acknowledgements) or in the presence of two
35 witnesses neither of whom is designated as the principal’s agent or successor agent and both of
36 whom also sign the form. If this power of attorney is durable, then before you act as agent under
37 the power, you must execute an acknowledgment of your duties as agent that contains all the
38 declarations contained in the optional template “Agent’s Acknowledgement” provided in section
39 302 of the uniform power of attorney act, 202_ PA ___, MCL ___. ___, in substantially the form
40 of that optional template.

41
42 **Liability of Agent**

43
44 The meaning of the authority granted to you is defined in the uniform power of attorney act,
45 202_ PA ___, MCL ___. ___ to ___. ___. If you violate that act or the terms of this power, you
46 may be liable for any damages caused by your violation.

47
48 **If there is anything about this document or your duties under it that you do not**

1 understand, you should seek legal advice.

2
3 **SECTION 302. AGENT’S ACKNOWLEDGEMENT.** The following optional
4 template may be used by a nominated agent under a durable power of attorney to provide the
5 acknowledgement required by section 113(2). **AGENT’S ACKNOWLEDGEMENT**

6
7 I, _____, have been appointed agent for _____,
8 (Your Name) (Name of Principal)
9 the principal, under a durable power of attorney dated _____. By signing this
10 document, I acknowledge that if and when I act as agent under the power, all of the following
11 apply:

12 **MY DUTIES AS AGENT**

13
14 I must:

- 15
16 1. Do what I know the principal reasonably expects me to do with the principal’s
17 property or, if I do not know the principal’s expectations, act in the principal’s best
18 interest
19 2. Act in good faith
20 3. Do nothing beyond the authority granted in the durable power of attorney
21 4. Keep reasonable records of receipts, disbursements, and transactions I make on behalf
22 of the principal
23 5. Disclose my identity as an agent whenever I act for the principal by writing or printing
24 the principal’s name and signing my own name as “agent”
25 6. And depending on the terms of the power of attorney, I may have additional duties
26 described in section 114 of the uniform power of attorney act, 202_ PA ___, MCL ___,
27 including the presumptive duties to act loyally for the principal’s benefit, avoid conflicts
28 of interest that would make it hard for me to act in the principal’s best interest, and act
29 with care, competence, and diligence

30
31 **POWERS REQUIRING SPECIFIC AUTHORITY**

32
33 Unless specifically provided in the durable power of attorney or by judicial order, I cannot do
34 any of the following:

- 35
36 1. Create, amend, revoke, or terminate an inter vivos trust;
37 2. Make a gift of the principal’s property to someone else, let alone to myself
38 3. Create or change rights of survivorship by, for example, creating a joint account
39 4. Create or change a beneficiary designation
40 5. Delegate authority granted under the durable power of attorney
41 6. Exercise fiduciary powers that the principal has authority to delegate
42 7. Waive the principal’s right to be a beneficiary of a joint and survivor annuity
43 including a survivor benefit under a retirement plan
44 8. Exercise authority over the content of electronic communications, as defined in 18
45 U.S.C. section 2510(12) sent or received by the principal
46 9. Exercise authority over any “bank, securities, or other financial account in a foreign

country” within the meaning of 31 CFR 1010.350

TERMINATION OF MY AUTHORITY

I must stop acting on behalf of the principal if I learn of any event that terminates the durable power of attorney or my authority under the power, including the death of the principal or the principal’s revocation of either the power or my authority to act under it.

MY POTENTIAL LIABILITY AS AGENT

If I violate the uniform power of attorney act, 202_ PA ___, MCL ___. ___ to ___. ___ or act outside the authority granted in the durable power, I may be liable to the principal or the principal’s successors for damages caused by my violation and to civil or criminal penalties. An exoneration clause in the power (if any) does not relieve me of liability for acts or omissions committed in bad faith or, in some cases, for acts or omissions committed with reckless indifference to the purposes of the power of attorney or the interests of the principal.

Signature: _____ Date: _____

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

SECTION 303. CERTIFICATION BY AGENT OR ATTORNEY AT LAW. The following optional template may be used by an agent or an attorney at law who represents either the agent or the principal to certify facts concerning a power of attorney. **CERTIFICATION AS TO THE VALIDITY OF POWER OF ATTORNEY AND AGENT’S AUTHORITY**

State of _____
[County] of _____]

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

I further certify that to my knowledge:

(1) the Principal is alive and has not revoked the Power of Attorney or the Agent’s authority to act under the Power and the Power and the Agent’s authority to act under the Power have not otherwise terminated;

(2) if the Power of Attorney was drafted to become effective upon the happening of a specified event or contingency, the specified event or contingency has occurred;

(3) if the Agent was named as a successor agent, the prior agent is unable or unwilling to

1 serve; and

2
3 (4)

4 _____
5 _____
6 _____
7 _____
8 _____
9 _____

10 (Insert other relevant statements. You may attach separate sheets if additional space is needed.)

11 **SIGNATURE AND ACKNOWLEDGMENT**

12
13
14 _____
15 Certifier's Signature

_____ Date

16
17 _____
18 Certifier's Name Printed

19
20 _____
21 Certifier's Capacity (as Agent, attorney at law for Agent, or attorney at law for Principal)

22
23 _____
24 Certifier's Address

25
26 _____
27 Certifier's Telephone Number

28
29 This document was acknowledged before me on _____,
30 (Date)

31 by _____
32 (Name of Certifier)

33
34 _____ (Seal, if any)
35 Signature of Notary

36 My commission expires: _____

37
38 This document prepared by:
39
40 _____

41
42 **ARTICLE 4**

43 **MISCELLANEOUS PROVISIONS**

1 **SECTION 401. UNIFORMITY OF APPLICATION AND CONSTRUCTION.** In
2 applying and construing this act, consideration should be given to the need to promote
3 uniformity of the law with respect to the act’s subject matter among the states that enact the
4 uniform act on which this act is based.

5 **SECTION 402. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL**
6 **AND NATIONAL COMMERCE ACT.** This act modifies, limits, and supersedes the federal
7 Electronic Signatures in Global and National Commerce Act, 15 U.S.C. sections 7001 to 7006,
8 but does not modify, limit, or supersede section 101(c) of that act, 15 U.S.C. section 7001(c), or
9 authorize electronic delivery of any of the notices described in section 103(b) of that act, 15
10 U.S.C. section 7003(b).

11 **SECTION 403. EFFECT ON EXISTING POWERS OF ATTORNEY.** Except as
12 otherwise provided in this act, on the effective date of this act all of the following apply:

13 (a) Except as provided in subsection (c), this act applies to a power of attorney created
14 before, on, or after the effective date of this act.

15 (b) This act applies to a judicial proceeding concerning a power of attorney commenced
16 on or after the effective date of this act.

17 (c) This act applies to a judicial proceeding concerning a power of attorney commenced
18 before the effective date of this act unless the court finds that application of a provision of this
19 act would substantially interfere with the effective conduct of the judicial proceeding or
20 prejudice the rights of a party, in which case, that provision does not apply and the superseded
21 law applies.

22 (d) An act done before the effective date of this act is not affected by this act.

23 **SECTION 404. REPEAL.** Sections 5501 to 5505 of the estates and protected

1 individuals code, 1998 PA 386, MCL 700.5501 to 700.5505 are repealed.

2 **SECTION 405. EFFECTIVE DATE.** This act takes effect _____.

ATTACHMENT 18

**UPOAA Committee Responses to Jim Steward’s April 9, 2022 Memorandum to CSP,
UPAA Ad Hoc Committee; Council re Uniform Power of Attorney Act**

Memo to CSP, UPAA Ad Hoc Committee; Council.

4-9-2022

From Jim Steward

In Re: Uniform Power of Attorney Act

I. I oppose creating this statute as a stand-alone Act.

As I mentioned a few months ago, I do not believe it is best to adopt this proposal as a standalone Act separate from EPIC. **When Jim first broached his view on this, the ad hoc committee promptly revisited its own initial determination that Michigan should enact the Uniform Power of Attorney Act (UPOAA) as a stand-alone statute rather than as an amendment of the Estates and Protected Individuals Code (EPIC). The committee’s reaffirmation of its initial preference was, at that time, unanimous. The committee has now revisited the question again in response to the Memorandum¹: on April 15, 2022, after discussion, the committee voted unanimously (all members present) to recommend to the Council that UPOAA be enacted in Michigan as a stand-alone statute.**

For one thing there is a much greater potential for there to be conflicts between the provisions of this power of attorney act and EPIC. **The ad hoc committee considers that the location of UPOAA within the Michigan legislative code is indifferent to the risk of conflict that Jim adduces: we expect that to the extent two statutes treat of the same subject, those statutes are *in pari materia* (and, therefore, to be interpreted as being of a piece) according to well-known principles of statutory interpretation,² including the principle that a court “will presume that the [legislature] is familiar with the principles of statutory interpretation.”³** But more importantly, EPIC is intended to be a comprehensive statute that deals with matters involving estate planning and disability issues **(which is, indeed, the Uniform Law Commission’s (ULC’s) characterization of the relevant legislative intent⁴),** including Wills, Trusts, powers of attorney, etc., which is exactly what the power of attorney act is designed to address. **Certainly, UPOAA is designed to address powers of attorney—and, of course, it**

¹ I.e., the April 9, 2022 memorandum (black type) on which these responses (in red) are superimposed.

² See, e.g., Rupert Cross, *Statutory Interpretation* 150–51 (John Bell & George Engle eds., 3d ed. 1995). There is, indeed, a uniform-law exhortation to the observance of this principle incorporated in EPIC: “This act is a general act intended as a unified coverage of its subject matter and a part of it shall not be considered impliedly repealed by subsequent legislation if that result can *reasonably* be avoided.” Mich. Comp. Laws (MCL) § 700.1203(2) (emphasis added) (following Unif. Probate Code § 1-105 (Unif. L. Comm’n 2010)).

³ *Nation v. W.D.E. Elec. Co.*, 454 Mich. 489, 494–95 (1997) (citations omitted).

⁴ See Unif. Probate Code § 1-105 (adverting to the “unified coverage of [the UPC’s] subject matter”); see also MCL § 700.1203(2) (indicating same verbatim).

addresses a lot of “etc.” But the assertion that wills and trusts are “exactly what [UPOAA] is designed to address” is as implausible as it is tendentious. It is true that UPOAA touches on topics—including wills, trusts, and the possibility that a given principal may have an estate plan—that are also treated in EPIC, but *that* is true of the Uniform Principal and Income Act,⁵ the Uniform Statutory Rule Against Perpetuities,⁶ the Uniform Disposition of Community Property Rights at Death Act,⁷ . . . and yet none of these latter uniform acts is ensconced in EPIC.

And though UPOAA is intended to replace the UPC provisions that it repeals, it is not intended *merely* to replace those provisions: “The primary purpose of the Uniform Durable Power of Attorney Act (1979/1987) [“formerly codified at Article V, Part 5 of the Uniform Probate Code”] was to provide individuals with an inexpensive, non-judicial method of surrogate property management in the event of later incapacity.”⁸ Hence the placement of 1979/1987 Act in Article V of EPIC on “Protection of an Individual under Disability and His or Her Property.”⁹ Unlike the UPOAA, the repealed provisions (five sections) pertain only to *durable* powers of attorney¹⁰ and they assume that necessary, background law governing even durable powers is to be found elsewhere.¹¹ By comparison, UPOAA (forty-eight sections including three statutory forms) is a codification of a wide swath of the modern law of agency, pertaining to nondurable as well as durable powers of attorney,¹² which, in the committee’s view (as expressed by an eloquent member), “deserves its own space.” EPIC already includes numerous rules and definitions to address such matters, and it is critical that such rules and definitions are consistently applied throughout the spectrum of disputes and interpretations that arise when dealing with the various categories of documents, issues and questions regarding interpretation or application. **The ad hoc committee suggests that quite apart from the stand-alone uniform acts mentioned above,¹³ the indifference of statutory *location* to what Jim says is “critical” here is demonstrated by the topographical aloofness of the Powers of Appointment Act of 1967¹⁴: what has been described as “estate-planning’s most powerful tool”¹⁵ is the subject of a Michigan statute that stands by itself, entirely outside of EPIC.** If a particular type of document or dispute needs a special definition, then that can and should be stated specifically.

⁵ MCL §§ 555.501–.1006.

⁶ *Id.* §§ 554.71–.78.

⁷ *Id.* §§ 557.261–.271.

⁸ Unif. Power of Att’y Act art. 1, general cmt. (Unif. L. Comm’r 2006).

⁹ Inst. of Continuing Legal Educ., Michigan Probate Sourcebook 375 (3d ed. 2018, Supp. 2021); *see also id.* at 474.

¹⁰ *See* MCL §§ 700.5501–.5505.

¹¹ *See id.* § 700.5501(3) (evidently advertent to external “authority, rights, responsibilities, and limitations . . . provided by [external] law with respect to a durable power of attorney”); *see also id.* § 700.5501(3)(a) (evidently advertent to external “standards of care [externally] applicable to fiduciaries exercising powers under a durable power of attorney”).

¹² *See, e.g.,* Unif. Power of Att’y Act § 104 (stipulating that a power of attorney created under [UPOAA] is durable unless it expressly states otherwise).

¹³ *See supra* notes 5–7 and accompanying text.

¹⁴ MCL §§ 556.111–.133.

¹⁵ Jonathan G. Blattmachr et al., *Estate Planning’s Most Powerful Tool: Powers of Appointment Refreshed, Redefined, and Reexamined*, 47 Real. Prop. Tr. & Est. L.J. 529 *passim* (2013).

When the Michigan Trust Code was developed over 10 years ago, that was derived from the Uniform Act, but was made part of and integrated into EPIC. That can and should be done here.

It certainly *can* be done here; whether it *should* be done is a question that the ad hoc committee has considered carefully and answered, unanimously, in the negative.

II. The Michigan Power of Attorney Act does not need to slavish follow the terms of the Uniform Act.

I do not agree that terms and definitions included in the Uniform Act must be used in Michigan to achieve national “uniformity”. **It is true that the ad hoc committee regards the “uniformity” endorsed, for example, by EPIC section 1201¹⁶ as a positive legislative value; it is true that the committee regards a departure from the language of the uniform act as regrettable *to the extent that* such a departure may forfeit the use of official ULC Comments as legislative history¹⁷ and the *rationes decidendi* of superior court decisions in other enacting states as aids to interpretation (and, thus, to judicial development) in Michigan;¹⁸ it is true that the committee values the acumen of the nationally recognized academics, judges, and attorneys that the ULC assembles (with the help of the American Bar Association and the American Law Institute) for its drafting projects. That was not done with the Michigan Trust Code. Which is, from the ad hoc committee’s point of view, regrettable *to the extent that* Michigan has thereby been deprived of useful interpretive and developmental resources¹⁹ described in the preceding response.²⁰ Rather the goal of**

¹⁶ MCL § 700.1201(d) (following Unif. Probate Code § 1-102(b)(5)).

¹⁷ “[T]he Comments to any Uniform Act, may be relied on as a guide for interpretation.” Unif. Tr. Code § 106 cmt. (Unif. L. Comm’n 2010) (citing *Acerno v. Worthy Bros. Pipeline Corp.*, 656 A.2d 1085, 1090 (Del. 1995) (interpreting Uniform Commercial Code) and *Yale Univ. v. Blumenthal*, 621 A.2d 1304, 1307 (Conn. 1993) (interpreting Uniform Management of Institutional Funds Act)); *see also, e.g.*, Harry Wilmer Jones, *Statutory Doubts and Legislative Intention*, 40 Colum. L. Rev. 957, 970 (1940). For the proposition that decisions of foreign courts interpreting a given uniform act should be considered by courts in states that have enacted that act, *see, e.g.*, Robert S. Summers, *Statutory Interpretation in the United States*, in *Interpreting Statutes: A Comparative Study* 407, 427–28 (D. Neil MacCormick & Robert S. Summers eds., 1991).

¹⁸ *See* Summers, *supra* note 17.

¹⁹ *See supra* text accompanying notes 17–18.

²⁰ When Michigan inserted its nonuniform trust-registration scheme into the Uniform Trust Code (UTC), for example, it evidently made its uniform-law notice procedure for change of principal place of administration elective *even as a “default” provision*. EPIC section 7108(4) follows UTC section 108(d), and courts interpreting other states’ versions of the uniform act have held that, unless the terms of the trust provide otherwise, principal place of administration can only be changed in accordance with the notice procedure set out in section 108(d). *See, e.g.*, *Seneker v. JP Morgan Chase Bank, N.A. (In re Stanley A. Seneker Trust)*, No. 317003 (Mich. Ct. App. Feb. 26, 2015) (applying Florida law). But that would seem to be controversial in Michigan; for according to the MTC’s registration provision, section 7209(1), “[f]or purposes of *this article* [i.e., Article VII of EPIC, *the MTC*], the principal place of the trust’s administration is the trustee’s usual place of business where the records pertaining to the trust are kept or the trustee’s residence if the trustee does not have such a place of business”! MCL § 700.7209(1) (emphasis added). The section does not say, “Except as provided in section 7108.” *See id.* So, assuming the terms of the trust are silent on

developing the terms which would become the Michigan Trust Code was to create a statute that would work the way we want it to in Michigan. **That is precisely the goal of the ad hoc committee in respect of UPOAA, but the committee believes that an important factor in the statute’s “work[ing in] the way we want it to in Michigan” is the uniform act’s prestige *as such*: there are national and regional institutions operating in Michigan—the largest of which regularly send “observers” to ULC drafting committee meetings—whose legal staffs regard a state’s having enacted uniform laws generally, and UPOAA in particular, as a mark of maturity in legal culture. In dealing with them, the State’s enactment of UOPAA more or less in the form promulgated by the ULC (the form with which the staffs in question are familiar) will be emollient.** Therefore, this Council made numerous changes to the Uniform Trust Code to achieve that result, some minor and some major. This committee, when taking into account the comments and concerns raised at CSP **(and by members of the Michigan Probate Judges Association, the Attorney General’s Elder Abuse Task Force, the Michigan Bankers Association, and the Michigan Credit Union League & Affiliates)**, has also made many changes as well, but in some cases has declined to do so because the requested change would depart from the provisions of the Uniform Act. **It is true that in some cases, the ad hoc committee has declined to make a suggested change because, in the committee’s view, the requested change would depart from the language of the uniform act *without creating compensating legislative value for Michigan*. But in no case has the committee rejected a suggested change *merely* because the change would depart from the language of the uniform act.** As all those who have participated in the Michigan process of reviewing these types of proposals at CSP is aware, the purpose of this process is to receive and take into account comments and concerns that have been raised and make revisions accordingly. **Without exception, the ad hoc committee has discussed and carefully evaluated every comment, concern, and suggestion that we have heard or received in writing.** Further, very few states actually adopt so-call “uniform act” without changes.

II. Example of some definitions that should coordinate with the Powers of Attorney Act.

Here are a few definitions taken from EPIC that should be reviewed in the context of similar definitions in the proposed Power of Attorney Act.

Sec. 1105. As used in this act:

(a) "Incapacitated individual" means an individual who is impaired by reason of mental illness, mental deficiency, physical illness or disability, chronic use of drugs, chronic intoxication, or

the point, Michigan law arguably allows a trustee to change the trust’s principal place of administration, *regardless* of section 7108(4), just by changing her “usual place of business where the records pertaining to the trust are kept” or (if she has the power to appoint a fiduciary colleague or successor) by appointing a new trustee to keep those records in a new location. (There are, of course, principles of statutory interpretation designed to resolve antinomies of this kind, but they are decidedly remedial. *See, e.g., Cross, supra* note 2, at 88–92 (indicating that internal contradiction is to be avoided in statutory interpretation); *see also* Carleton Kemp Allen, *Law in the Making* 403–04 (4th ed. 1946) (regarding avoidance of anomaly in statutory interpretation).)

other cause, not including minority, to the extent of lacking sufficient understanding or capacity to make or communicate informed decisions.

Sec. 2501. (1) An individual 18 years of age or older who has sufficient mental capacity may make a will.

(2) An individual has sufficient mental capacity to make a will if all of the following requirements are met:

(a) The individual has the ability to understand that he or she is providing for the disposition of his or her property after death.

(b) The individual has the ability to know the nature and extent of his or her property.

(c) The individual knows the natural objects of his or her bounty.

(d) The individual has the ability to understand in a reasonable manner the general nature and effect of his or her act in signing the will.

700.2606 Nonademption of specific devises; unpaid proceeds of sale, condemnation, or insurance; sale by conservator or agent.

(2) If an agent acting within the authority of a durable power of attorney for an incapacitated principal or a conservator sells or mortgages specifically devised property, or if a condemnation award, insurance proceeds, or recovery for injury to the property are paid to an agent acting within the authority of a durable power of attorney for an incapacitated principal or to a conservator, the specific devisee has the right to a general pecuniary devise equal to the net sale price, the amount of the unpaid loan, the condemnation award, the insurance proceeds, or the recovery.

(5) For the purposes of the references in subsection (2) to an agent acting within the authority of a durable power of attorney for an incapacitated principal, an incapacitated principal is a principal who is an incapacitated individual, an adjudication of the individual's incapacity before death is not necessary, and the acts of an agent within the authority of a durable power of attorney are presumed to be for an incapacitated principal.

Sec. 7103. As used in this article:

* * * *

(h) "Revocable", as applied to a trust, means revocable by the settlor without the consent of the trustee or a person holding an adverse interest. A trust's characterization as revocable is not affected by the settlor's lack of capacity to exercise the power of revocation, regardless of whether an agent of the settlor under a durable power of attorney, a conservator of the settlor, or a plenary guardian of the settlor is serving.

700.7601 Capacity of settlor of revocable trust.

Sec. 7601. The capacity required to create, amend, revoke, or add property to a revocable trust, or to direct the actions of the trustee of a revocable trust, is the same as that required to make a will.

700.7820a Irrevocable trust including discretionary trust provision; distribution; definitions.

(3) For purposes of this section, all of the following apply:

(a) In determining whether a trust is irrevocable, a settlor's lack of capacity to exercise a power of revocation negates the power unless an agent of the settlor under a durable power of attorney, a conservator of the settlor, or a plenary guardian of the settlor is serving and the agent, conservator, or guardian is authorized to exercise the power of revocation.

Summary.

In my opinion, and based on prior experience, it is critical that this new Power of Attorney Act be made part of EPIC and coordinated accordingly. **As explained above, the ad hoc committee is inclined to regard the location of UPOAA within the Michigan legislative code as indifferent to coordination with EPIC.²¹ And the committee has reviewed each of the EPIC provisions to which Jim invites our attention above without discovering anything untoward. Furthermore, the committee believes that UPOAA's length and breadth of application make it just too big for EPIC to house comfortably.²²**

Jim Steward

²¹ See *supra* text accompanying notes 2–7, 13–14.

²² See *supra* text accompanying notes 8–12.