

- (a) The value and nature of the principal's property;
- (b) The principal's foreseeable obligations and need for maintenance;
- (c) Minimization of taxes, including income, estate, inheritance, generation-skipping transfer, and gift taxes;
- (d) Eligibility for a benefit, a program, or assistance under a statute or regulation; and
- (e) The principal's personal history of making or joining in making gifts.

Source: L. 2009: Entire part added, (HB 09-1198), ch. 106, p. 410, § 1, effective April 9.
L. 2011: (2) amended, (SB 11-083), ch. 101, p. 311, § 23, effective August 10.

SUBPART 3

STATUTORY FORMS

OFFICIAL GENERAL COMMENT

Subpart 3 provides a concise, optional statutory form for creating a power of attorney under this Act (Section 15-14-741). With the proliferation of power of attorney forms in the public domain, the advantage of a statutorily-sanctioned form is the promotion of uniformity in power of attorney practice. In states such as Illinois and New York, where state-sanctioned statutory forms have existed for many years, the statutory form is widely used by both lawyers and lay persons. The familiarity and common understanding achieved with the use of one statutory form also facilitates acceptance of powers of attorney. In the twenty years preceding this Act, the number of states with statutory forms has increased from only a few to eighteen.

In addition to the statutory form power of attorney, Subpart 3 provides an

optional form for agent certification of facts pertaining to a power of attorney (Section 15-14-742). Pursuant to Section 15-14-719, a person may request an agent to certify any factual matter concerning the principal, agent, or power of attorney. The form in Section 15-14-742 is intended to facilitate agent compliance with these requests. The form lists factual matters about which persons commonly request certification (*e.g.*, the principal is alive and has not revoked the power of attorney or the agent's authority), and provides a designated space for certification of additional factual statements. Both the statutory form power of attorney and the agent certification form may be tailored to accommodate individual circumstances and objectives.

15-14-741. Statutory form - power of attorney. A document substantially in the following form may be used to create a statutory form power of attorney that has the meaning and effect prescribed by this part 7.

**STATE OF COLORADO STATUTORY FORM
POWER OF ATTORNEY
IMPORTANT INFORMATION**

This power of attorney authorizes another person (your agent) to make decisions concerning your property for you (the principal). Your 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 of authority over subjects listed on this form is explained in the "Uniform Power of Attorney Act", part 7 of article 14 of title 15, Colorado Revised Statutes.

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

You should select someone you trust to serve as your agent. Unless you specify otherwise, generally the agent's authority will 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 agent. If you wish to name more than one agent you may name a coagent 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.

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

DESIGNATION OF AGENT

I _____ (name of principal) name the following 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", part 7 of article 14 of title 15, Colorado Revised Statutes:

(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 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

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. INITIAL ONLY the specific authority you WANT to give your agent.)

☐

Create, amend, revoke, or terminate an inter vivos trust

☐

Make a gift, subject to the limitations of the "Uniform Power of Attorney Act" set forth in section 15-14-740, Colorado Revised Statutes, and any special instructions in this power of attorney

☐

Create or change rights of survivorship

☐

Create or change a beneficiary designation

☐

Authorize another person to exercise the authority granted under this power of attorney

☐

Waive the principal's right to be a beneficiary of a joint and survivor annuity, including a survivor benefit under a retirement plan

☐

Exercise fiduciary powers that the principal has authority to delegate, including powers to participate in the designation or changing of a fiduciary and powers to participate in the direction of a fiduciary in the exercise of the fiduciary's powers

☐

Disclaim, refuse, or release an interest in property or a power of appointment

☐

Exercise a power of appointment other than: (1) The exercise of a general power of appointment for the benefit of the principal which may, if the subject of estates, trusts, and other beneficial interests is authorized above, be exercised as provided under the subject of estates, trusts, and other beneficial interests; or (2) the exercise of a general power of appointment for the benefit of persons other than the principal which may, if the making of a gift is specifically authorized above, be exercised under the specific authorization to make gifts

☐

Exercise powers, rights, or authority as a partner, member, or manager of a partnership, limited liability company, or other entity that the principal may exercise on behalf of the entity and has authority to delegate excluding the exercise of such powers, rights, and authority with respect to an entity owned solely by the principal which may, if operation of entity or business is authorized above, be exercised as provided under the subject of operation of the entity or business

LIMITATION ON AGENT'S AUTHORITY

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

SPECIAL INSTRUCTIONS (OPTIONAL)

You may give special instructions on the following lines:

EFFECTIVE DATE

This power of attorney is effective immediately unless I have stated otherwise in the special instructions.

NOMINATION OF CONSERVATOR

OR GUARDIAN (OPTIONAL)

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

Name of nominee for conservator 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 it has terminated or is invalid.

SIGNATURE AND ACKNOWLEDGMENT

Your signature

Date

Your name printed

Your address

Your telephone number

State of _____
[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 the 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 of attorney is terminated or revoked. 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; and

(4)

Disclose your identity as an agent whenever you act for the principal by 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

Unless the special instructions in this power of attorney state otherwise, you must also:

(1)

Act loyally for the principal's benefit;

(2)

Avoid conflicts that would impair your ability to act in the principal's best interest;

(3)

Act with care, competence, and diligence;

(4)

Keep a record of all receipts, disbursements, and transactions made on behalf of the principal;

(5)

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

(6)

Attempt to preserve the principal's estate plan if you know the plan and preserving the plan is consistent with the principal's best interest.

Termination of agent's authority

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

(1)

Death of the principal;

(2)

The principal's revocation of the power of attorney or your authority;

(3)

The occurrence of a termination event stated in the power of attorney;

(4)

The purpose of the power of attorney is fully accomplished; or

(5)

If you are married to the principal, a legal action is filed with a court to end your marriage, or for your legal separation, unless the special instructions in this power of attorney state that such an action will not terminate your authority.

Liability of agent

The meaning of the authority granted to you is defined in the "Uniform Power of Attorney Act", part 7 of article 14 of title 15, Colorado Revised Statutes. If you violate the "Uniform Power of Attorney Act", part 7 of article 14 of title 15, Colorado Revised Statutes, or act outside the authority granted, you may be liable for any damages caused by your violation.

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

Source: L. 2009: Entire part added, (HB 09-1198), ch. 106, p. 411, § 1, effective April 9.
L. 2011: Entire section amended, (SB 11-083), ch. 101, p. 311, § 24, effective August 10.

15-14-742. Certification. The following optional form may be used by an agent 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 agent), certify under penalty of perjury that _____ (Name of principal) granted 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 my authority to act under the power of attorney and the power of attorney and my authority to act under the power of attorney have not terminated;

(2) If the power of attorney was drafted to become effective upon the happening of an event or contingency, the event or contingency has occurred;

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

(4) _____

(Insert other relevant statements)

SIGNATURE AND ACKNOWLEDGMENT

Agent signature Date

Agent's name printed

Agent's address

Agent's telephone number

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

by _____.
(Name of agent)

_____(Seal, if any)

Signature of notary

My commission expires: _____

This document prepared by:

Source: L. 2009: Entire part added, (HB 09-1198), ch. 106, p. 417, § 1, effective April 9.

SUBPART 4

MISCELLANEOUS PROVISIONS

15-14-743. Uniformity of application and construction. In applying and construing this part 7, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among the states that enact it.

Source: L. 2009: Entire part added, (HB 09-1198), ch. 106, p. 418, § 1, effective April 9.

15-14-744. Relation to "Electronic Signatures in Global and National Commerce Act". This part 7, modifies, limits, and supersedes the federal "Electronic Signatures in Global and National Commerce Act", 15 U.S.C. sec. 7001 et seq., but does not modify, limit, or supersede section 101 (c) of that act, 15 U.S.C. sec. 7001 (c), or authorize electronic delivery of any of the notices described in section 103 (b) of that act, 15 U.S.C. sec. 7003 (b).

Source: L. 2009: Entire part added, (HB 09-1198), ch. 106, p. 418, § 1, effective April 9.

15-14-745. Effect on existing powers of attorney. (1) Except as otherwise provided in this part 7, on January 1, 2010:

- (a) This part 7 applies to a power of attorney created before, on, or after January 1, 2010;
- (b) This part 7 applies to a judicial proceeding concerning a power of attorney commenced on or after January 1, 2010;
- (c) This part 7 applies to a judicial proceeding concerning a power of attorney commenced before January 1, 2010, unless the court finds that application of a provision of this