

STATE OF NEW YORK

4996--B

2007-2008 Regular Sessions

IN SENATE

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Introduced by Sens. VOLKER, FLANAGAN, GOLDEN, LARKIN,
MORAHAN, RATH,
ROBACH -- read twice and ordered printed, and when
printed to be
committed to the Committee on Judiciary -- committee
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amended, ordered reprinted as amended and recommitted to said
commit-
tee -- recommitted to the Committee on Judiciary in
accordance with
Senate Rule 6, sec. 8 -- committee discharged, bill amended,
ordered
reprinted as amended and recommitted to said committee

AN ACT to amend the general obligations law, in relation to
powers of
attorney, providing definitions and general requirements
for valid
powers of attorney, providing for the duties of the agent,
requiring
the agent to sign the power of attorney form, providing
procedures for
the revocation of the power of attorney, and providing
for civil
proceedings with respect to powers of attorney, and to repeal
sections
5-1501, 5-1502M, 5-1505 and 5-1506 of such law relating to
powers of
attorney

**The People of the State of New York, represented in Senate
and Assem-
bly, do enact as follows:**

1 Section 1. The title heading of title 15 of article 5 of
the general
2 obligations law is amended to read as follows:
3 STATUTORY SHORT FORM [~~POWER~~] **AND OTHER POWERS**
4 **OF ATTORNEY FOR FINANCIAL ESTATE PLANNING**
5 § 2. Section 5-1501 of the general obligations law is
REPEALED and

6 three new sections 5-1501, 5-1501A and 5-1501B are added
to read as
7 follows:

8 § 5-1501. Definitions. As used in this title the
following terms
9 shall have the following meanings:
10 1. "Agent" means a person granted authority to act as
attorney-in-fact
11 for the principal under a power of attorney, and includes the
original
12 agent and any co-agent or successor agent. Unless the context
indicates
13 otherwise, an "agent" designated in a power of attorney
shall mean

EXPLANATION--Matter in italics (underscored) is new; matter in
brackets

[-] is old law to be omitted.

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1 "attorney-in-fact" for the purposes of this title. An agent
acting under
2 a power of attorney has a fiduciary relationship with the
principal.
3 2. "Benefits from governmental programs or civil or military
service"
4 means any benefit, program or assistance provided under a
statute or
5 governmental regulation, including social security, medicare
and medi-
6 caid.
7 3. "Capacity" means ability to comprehend the nature and
consequences
8 of the act of executing and granting, revoking, amending or
modifying a
9 power of attorney, any provision in a power of attorney, or the
authori-
10 ty of any person to act as agent under a power of attorney.
11 4. "Compensation" means reasonable compensation authorized to
be paid
12 to the agent from assets of the principal for services actually
rendered
13 by the agent pursuant to the authority granted in a power of
attorney.
14 5. "Financial institution" means a financial entity,
including, but
15 not limited to: a bank, trust company, national bank,
savings bank,
16 federal mutual savings bank, savings and loan
association, federal
17 savings and loan association, federal mutual savings and loan
associ-
18 ation, credit union, federal credit union, branch of a
foreign banking

19 corporation, public pension fund, retirement system, securities
20 broker,
21 securities dealer, securities firm, and insurance company.
22 6. "Incapacitated" means to be without capacity.
7. "Internal Revenue Code" means the United States
Internal Revenue
23 Code of 1986, as amended. Such references, however, shall be
24 deemed to
25 constitute references to any corresponding provisions of any
26 subsequent
27 federal tax code.
28 8. "Monitor" means a person appointed in the power of
29 attorney who has
30 the authority to request, receive, and seek to compel the
31 agent to
32 provide a record of all receipts, disbursements, and
33 transactions
34 entered into by the agent on behalf of the principal.
35 9. "Person" means an individual, whether acting for
36 himself or
37 herself, or as a fiduciary or as an official of any legal,
38 governmental
39 or commercial entity (including, but not limited to, any
40 such entity
41 identified in this subdivision), corporation, business
42 trust, estate,
43 trust, partnership, limited liability company,
44 association, joint
45 venture, government, governmental subdivision, government
46 agency,
47 government entity, government instrumentality, public
48 corporation, or
49 any other legal or commercial entity.
50 10. "Power of attorney" means a written document by which a
principal
51 with capacity designates an agent to act on his or her behalf.
52 11. "Principal" means an individual who is eighteen years of
53 age or
54 older who executes a power of attorney.
55 12. "Record" means information that is inscribed on a
56 tangible medium
57 or that is stored in an electronic or other medium and is
58 retrievable in
59 perceivable form.
60 13. "Sign" means to place any memorandum, mark or sign,
written,
61 printed, stamped, photographed, engraved or otherwise upon an
62 instrument
63 or writing, or to use an electronic signature as that term is
64 defined in
65 subdivision three of section three hundred two of the state
66 technology
67 law, with the intent to execute the instrument, writing or
68 electronic
69 record. In accordance with the requirements of section
70 three hundred

51 seven of the state technology law, a power of attorney or
52 any other
53 instrument executed by the principal or agent that is
54 recordable under
55 the real property law shall not be executed with an
56 electronic signa-
57 ture.

58 14. "Statutory major gifts rider" or "SMGR" means a document
59 by which
60 the principal may supplement a statutory short form power of
61 attorney to

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62 1 authorize major gift transactions and other transfers, that
63 meets the
64 2 requirements of subdivision nine of section 5-1514 of this
65 title, and

66 3 that contains the exact wording of the form set forth in
67 subdivision ten
68 4 of section 5-1514 of this title. The use of the form set forth
69 in subdivi-
70 5 sion ten of section 5-1514 of this title is lawful and when
71 used, it

72 6 shall be construed as a statutory major gifts rider. A
73 statutory major
74 7 gifts rider may contain modifications or additions as
75 provided in

76 8 section 5-1503 of this title as such modifications or
77 additions relate
78 9 to major gift transactions and other transfers. The
79 statutory major

80 10 gifts rider must be executed in the manner provided in section
81 5-1514 of
82 11 this title, simultaneously with the statutory short form power
83 of attor-

84 12 ney in which the authority (SMGR) is initialed by the
85 principal. A stat-
86 13 utory major gifts rider and the statutory short form power of
87 attorney

88 14 it supplements must be read together as a single instrument.
89 15 15. "Statutory short form power of attorney" means a power of
90 attorney

91 16 that meets the requirements of paragraphs (a), (b) and (c) of
92 subdivi-
93 17 sion one of section 5-1501B of this title, and that contains
94 the exact

95 18 wording of the form set forth in section 5-1513 of this
96 title. The use
97 19 of the form set forth in section 5-1513 of this title is lawful
98 and when

99 20 used, it shall be construed as a statutory short form power of
100 attorney.
101 21 A statutory short form power of attorney may be used to grant
102 authority

103 22 provided in sections 5-1502A through 5-1502N of this title. A
104 "statutory

23 short form power of attorney" may contain modifications or
24 additions as
25 provided in section 5-1503 of this title, but in no event
26 may it be
27 modified to grant any authority provided in section 5-
28 1514 of this
29 title. If the authority (SMGR) on the statutory short form is
30 initialed
31 by the principal, the statutory short form power of
32 attorney must be
33 executed in the manner provided in section 5-1501B of this
34 title, simul-
35 taneously with the statutory major gifts rider. A statutory
36 short form
37 power of attorney and a statutory major gifts rider which
38 supplements it
39 must be read together as a single instrument.

40 16. "Third party" means a financial institution or person.
41 § 5-1501A. Power of attorney not affected by incapacity.

42 1. A power
43 of attorney is durable unless it expressly provides that it
44 is termi-
45 nated by the incapacity of the principal.

46 2. The subsequent incapacity of a principal shall not revoke
47 or termi-

48 nate the authority of an agent who acts under a durable power
49 of attor-

50 ney. All acts done during any period of the principal's
51 incapacity by an

52 agent pursuant to a durable power of attorney shall have the
53 same effect

54 and inure to the benefit of and bind a principal and his or her
55 distri-

56 butees, devisees, legatees and personal representatives as if
57 such prin-

58 cipal had capacity. If a guardian is thereafter appointed for
59 such prin-

60 cipal, such agent, during the continuance of the
61 appointment, shall

62 account to the guardian rather than to such principal.
63 § 5-1501B. Creation of a valid power of attorney; when

64 effective. 1.
65 To be valid, a statutory short form power of attorney, or a

66 non-statuto-
67 ry power of attorney, executed in this state by an individual,

68 must:
69 (a) Be typed or printed using letters which are legible or

70 of clear
71 type no less than twelve point in size, or, if in writing, a

72 reasonable
73 equivalent thereof.

74 (b) Be signed and dated by a principal with capacity, with
75 the signa-

76 ture of the principal duly acknowledged in the manner
77 prescribed for the

78 acknowledgement of a conveyance of real property.

54 (c) Be signed and dated by any agent acting on behalf of the
55 principal
56 with the signature of the agent duly acknowledged in
the manner
prescribed for the acknowledgement of a conveyance of real
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1 power of attorney executed pursuant to this section is not
2 invalid
3 solely because there has been a lapse of time between
4 the date of
5 acknowledgment of the signature of the principal and the
6 date of
7 acknowledgement of the signature of the agent acting on
8 behalf of the
9 principal or because the principal became incapacitated during
10 any such
11 lapse of time.

12 (d) Contain the exact wording of the:
13 (1) "Caution to the Principal" in paragraph (a) of
14 subdivision one of
15 section 5-1513 of this title; and
16 (2) "Important Information for the Agent" in paragraph (n) of
17 subdivi-
18 sion one of section 5-1513 of this title.

19 2. In addition to the requirements of subdivision one of this
20 section,
21 to be valid for the purpose of authorizing the agent to make
22 any gift or
23 other transfer described in section 5-1514 of this title:
24 (a) a statutory short form power of attorney must contain the
25 authori-
26 ty (SMGR) initialed by the principal and be accompanied by a
27 valid stat-
28 utory major gifts rider; and

29 (b) a non-statutory power of attorney must be executed
30 pursuant to the
31 requirements of paragraph (b) of subdivision nine of section
32 5-1514 of
33 this title.

34 3. (a) The date on which an agent's signature is
35 acknowledged is the
36 effective date of the power of attorney as to that agent;
37 provided,
38 however, that if two or more agents are designated to act
39 together, the
40 power of attorney takes effect when all the agents so
41 designated have
42 signed the power of attorney with their signatures
43 acknowledged.

44 (b) If the power of attorney states that it takes effect
45 upon the
46 occurrence of a date or a contingency specified in the
47 document, then
48 the power of attorney takes effect only when the date or
49 contingency

29 identified in the document has occurred, and the signature of
30 the agent
31 acting on behalf of the principal has been acknowledged. If the
32 document
33 requires that a person or persons named or otherwise
34 identified therein
35 declare, in writing, that the identified contingency has
36 occurred, such
37 a declaration satisfies the requirement of this paragraph
38 without regard
39 to whether the specified contingency has occurred.
40 4. Nothing in this title shall be construed to bar the
41 use of any
42 other or different form of power of attorney desired by a
43 person other
44 than an individual as the term person is defined in section
45 5-1501 of
46 this title.

47 § 3. Subdivisions 2 and 9 of section 5-1502A of the
48 general obli-
49 gations law are amended to read as follows:
50 2. To sell, to exchange, to convey either with or without
51 covenants,
52 to quit-claim, to release, to surrender, to mortgage, to
53 incumber, to
54 partition or to consent to the partitioning, [~~to revoke, create~~
55 ~~or modi-~~
56 ~~fy a trust,~~] to grant options concerning, to lease or to
57 sublet, or
58 otherwise to dispose of, any estate or interest in land;
59 9. To execute, to acknowledge, to seal and to deliver any
60 deed, [~~revo-~~
61 ~~cation, declaration or modification of trust,~~] mortgage, lease,
62 notice,
63 check or other instrument which the agent may think
64 useful for the
65 accomplishment of any of the purposes enumerated in this
66 section;

67 § 4. Subdivisions 2 and 7 of section 5-1502B of the
68 general obli-
69 gations law are amended to read as follows:
70 2. To sell, to exchange, to convey either with or without
71 covenants,
72 to release, to surrender, to mortgage, to incumber, to
73 pledge, to
74 hypothecate, to pawn, [~~to revoke, create or modify a trust,~~]
75 to grant
76 options concerning, to lease or to sublet to others, or
77 otherwise to
78 dispose of any chattel or goods or any interest in any chattel
79 or goods;

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1 7. To execute, to acknowledge, to seal and to deliver any
2 conveyance,
3 [~~revocation, declaration or modification of trust,~~]
4 mortgage, lease,

3 notice, check or other instrument which the agent may think
useful for

4 the accomplishment of any of the purposes enumerated in this
section;

5 § 5. Subdivisions 2 and 9 of section 5-1502C of the
general obli-

6 gations law are amended to read as follows:

7 2. To sell (including short sales), to exchange, to
transfer either

8 with or without a guaranty, to release, to surrender, to
hypothecate, to

9 pledge, [~~to revoke, create or modify a trust,~~] to grant options
concern-

10 ing, to loan, to trade in, or otherwise to dispose of any
bond, share,

11 instrument of similar character, commodity interest or any
instrument

12 with respect thereto;

13 9. To execute, to acknowledge, to seal and to deliver any
consent,

14 agreement, authorization, assignment, [~~revocation, —
declaration — or~~

15 ~~modification of trust,~~] notice, waiver of notice, check,
or other

16 instrument which the agent may think useful for the
accomplishment of

17 any of the purposes enumerated in this section;

18 § 6. Subdivisions 1 and 2 of section 5-1502D of the
general obli-

19 gations law are amended to read as follows:

20 1. To continue, to modify [~~and~~], to terminate and to make
deposits to

21 and withdrawals from any deposit account, including any
joint account

22 with the agent or totten trust for the benefit of the agent,
or other

23 banking arrangement made by or on behalf of the principal
prior to the

24 creation of the agency, provided, however, that:

25 (a) with respect to joint accounts existing at the creation
of the

26 agency, the authority granted hereby shall not include the
power to

27 change the title of the account by the addition of a new joint
tenant or

28 the deletion of an existing joint tenant, unless the authority
to make

29 such changes is conveyed in a statutory major gifts rider to a
statutory

30 short form power of attorney or in a non-statutory power of
attorney

31 signed and dated by the principal with the signature of the
principal

32 duly acknowledged in the manner prescribed for the
acknowledgement of a

33 conveyance of real property, and which is executed pursuant
to the

34 requirements of paragraph (b) of subdivision nine of section
35 5-1514 of
36 this title, and
37 (b) with respect to totten trust accounts existing at the
38 creation of
39 the agency, the authority granted hereby shall not include the
40 power to
41 add, delete, or otherwise change the designation of
42 beneficiaries in
43 effect for any such accounts, unless the authority to make
44 such addi-
45 tions, deletions or changes is conveyed in a statutory major
46 gifts rider
47 to a statutory short form power of attorney or in a non-
48 statutory power
49 of attorney signed and dated by the principal with the
50 signature of the
51 principal duly acknowledged in the manner prescribed for the
52 acknowledg-
53 ment of a conveyance of real property, and which is executed
54 pursuant to
55 the requirements of paragraph (b) of subdivision nine of
56 section 5-1514
57 of this title.

58 2. To open [~~either in the name of the agent alone, or~~] in
59 the name of
60 the principal [~~alone, or in both their names jointly or~~
61 ~~otherwise,~~] or
62 on behalf of the principal a deposit account of any type with
63 any banker
64 or in any banking institution selected by the agent, to make
65 deposits to
66 and withdrawals from any such deposit account, to hire such
67 safe deposit
68 box or vault space and to make such other contracts for the
69 procuring of
70 other services made available by any such banker or banking
71 institution
72 as the agent shall think to be desirable;
73 § 7. Subdivisions 1, 2 and 3 of section 5-1502F of the
74 general obli-
75 gations law are amended to read as follows:
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77 1. To continue, to pay the premium or assessment on, to
78 modify, to
79 rescind, to release or to terminate any contract of life,
80 accident,
81 health, disability or liability insurance or any
82 combination of such
83 insurance procured by or on behalf of the principal prior
84 to the
85 creation of the agency which insures either the principal or
86 any other
87 person, without regard to whether the principal is or is not a
88 benefi-

7 ary thereunder; provided, however, with respect to life
insurance
8 contracts existing at the creation of the agency, the
authority granted
9 hereby shall not include the power to add, delete or
otherwise change
10 the designation of beneficiaries in effect for any such
contract, unless
11 the authority to make such additions, deletions or changes is
conveyed
12 in a statutory major gifts rider to a statutory short form
power of
13 attorney or in a non-statutory power of attorney signed and
dated by the
14 principal with the signature of the principal duly
acknowledged in the
15 manner prescribed for the acknowledgment of a conveyance of
real proper-
16 ty, and which is executed pursuant to the requirements of
paragraph (b)
17 of subdivision nine of section 5-1514 of this title;
18 2. To procure new, different or additional contracts of
insurance [~~on~~
19 ~~the life of the principal, or~~] protecting the principal with
respect to
20 ill-health, disability, accident or liability of any sort, to
select the
21 amount, the type of insurance contract and the mode of
payment under
22 each such policy, to pay the premium or assessment on, to
modify, to
23 rescind, to release or to terminate, any contract so
procured by the
24 agent [~~and to designate the beneficiary of any such contract~~
~~of insur-~~
25 ~~ance, provided, however, that the agent himself cannot be such~~
~~benefici-~~
26 ~~ary unless the agent is spouse, child, grandchild, parent,~~
~~brother or~~
27 ~~sister of the principal~~];
28 3. To apply for and to receive any available loan on the
security of
29 the contract of insurance, whether for the payment of a
premium or for
30 the procuring of cash, to surrender and thereupon to receive
the cash
31 surrender value, to exercise [~~any~~] an election as to
beneficiary or mode
32 of payment, to change the manner of paying premiums, and to
change or to
33 convert the type of insurance contract, with respect to any
contract of
34 life, accident, health, disability or liability insurance as
to which
35 the principal has, or claims to have, any one or more of
the powers

36 described in this section [~~and to change the beneficiary of~~
37 ~~any such~~
38 ~~contract of insurance, provided, however, that the agent~~
39 ~~himself cannot~~
40 ~~be such new beneficiary unless the agent is spouse, child,~~
41 ~~grandchild,~~
42 ~~parent, brother or sister of the principal]~~; provided, however,
43 that the
44 authority granted hereby shall not include the power to add,
45 delete or
46 otherwise change the designation of beneficiaries in effect for
47 any such
48 contract, unless the authority to make such additions,
49 deletions or
50 changes is conveyed in a statutory major gifts rider to a
51 statutory
52 short form power of attorney or in a non-statutory power of
53 attorney
54 signed and dated by the principal with the signature of the
55 principal
56 duly acknowledged in the manner prescribed for the
57 acknowledgment of a
58 conveyance of real property, and which is executed
59 pursuant to the
60 requirements of paragraph (b) of subdivision nine of section
61 5-1514 of
62 this title;
63 § 8. The closing paragraph of section 5-1502G of the
64 general obli-
65 gations law is amended to read as follows:
66 All powers described in this section [~~5-1502G of the~~
67 ~~general obli-~~
68 ~~gations law]~~ shall be exercisable equally with respect to any
69 estate of
70 a decedent, absentee, infant or incompetent, or the
71 administration of
72 any trust or other fund, in which the principal is
73 interested at the
74 giving of the power of attorney or may thereafter become
75 interested,
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1 regardless of whether the estate, trust or other fund is
2 specifically
3 identified at the giving of the power of attorney and whether
4 located in
5 the state of New York or elsewhere.
6 § 9. The section heading, opening paragraph and
7 subdivision 13 of
8 section 5-1502I of the general obligations law are amended to
9 read as
10 follows:
11 Construction--personal [~~relationships~~] and [~~affairs~~]
12 family mainte-
13 nance. In a statutory short form power of attorney, the
14 language confer-

9 ring general authority with respect to "personal
[relationships,] and
10 family maintenance" must be construed to mean that the
principal author-
11 izes the agent:
12 13. To hire, to discharge, and to compensate any attorney,
accountant,
13 expert witness or other assistant or assistants when the
agent shall
14 think such action to be desirable for the proper execution by
him of any
15 of the powers described in this section, and for the keeping
of needed
16 records thereof; [and]
17 § 10. Subdivision 14 of section 5-1502I of the general
obligations law
18 is renumbered subdivision 15 and a new subdivision 14 is
added to read
19 as follows:
20 14. To continue gifts that the principal customarily made to
individ-
21 uals and charitable organizations prior to the creation of
the agency,
22 provided that no person or charitable organization may be the
recipient
23 of gifts in any one calendar year which, in the aggregate,
exceed five
24 hundred dollars; and
25 § 11. Section 5-1502J of the general obligations law is
amended to
26 read as follows:
27 § 5-1502J. Construction--benefits from governmental programs
or civil
28 or military service. In a statutory short form power of
attorney, the
29 language conferring general authority with respect to
"benefits from
30 governmental programs or civil or military service," or in a
statutory
31 short form power of attorney properly executed in accordance
with the
32 laws in effect at the time of its execution, the language
conferring
33 authority with respect to "military service," must be
construed to mean
34 that the principal authorizes the agent:
35 1. To execute vouchers in the name of the principal for [~~any~~
~~and all~~]
36 allowances and reimbursements payable by the United States, or
a foreign
37 government or by [~~any~~] a state or subdivision [~~thereof~~] of a
state, to
38 the principal, including [~~by way of illustration and not of~~
~~restriction,~~
39 all] but not limited to allowances and reimbursements for
transportation

40 of the principal and of [~~his~~] the principal's spouse, children
41 and other

42 dependents, and for shipment of household effects, to
receive, to
43 indorse and to collect the proceeds of any check payable to the
order of

44 the principal drawn on the treasurer or other fiscal officer
or deposi-

45 tary of the United States or a foreign government or of any
state or

46 subdivision thereof;

47 2. To take possession and to order the removal and
shipment[~~7~~] of

48 [~~any~~] property of the principal from [~~any~~] a post,
warehouse, depot,

49 dock or other place of storage or safekeeping, either
governmental or

50 private, [~~to~~] and execute and [~~to~~] deliver [~~any~~] a release,
voucher,

51 receipt, bill of lading, shipping ticket, certificate or
other instru-

52 ment [~~which the agent shall think to be desirable or necessary~~]
for such

53 purpose;

54 3. To enroll in, apply for, select, reject, change, amend, or
discon-

55 tinue a benefit or program on the principal's behalf;

56 4. To prepare, [~~to~~] file and [~~to~~] prosecute [~~the~~] a claim of
the prin-

57 cipal to any benefit or assistance, financial or otherwise, to
which the

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1 principal is, or claims to be, entitled, under [~~the provisions~~
~~of any~~] a

2 statute or governmental regulation [~~existing at the~~
~~creation of the~~

3 ~~agency or thereafter enacted by the United States or by any~~
~~state or by~~

4 ~~any subdivision thereof, or by any foreign government, which],~~
including

5 any benefit or assistance which arises from or is based upon
military

6 service performed prior to or after the creation of the agency
by the

7 principal or by any person related by blood or by marriage to
the prin-

8 cipal, to execute any receipt or other instrument which the
agent shall

9 think to be desirable or necessary for the enforcement
or for the

10 collection of such claim;

11 [~~4.~~] 5. To receive the financial proceeds of any claim of
the type

12 described in this section, [~~to~~] conserve, [~~to~~] invest, [~~to~~]
disburse or

13 ~~[to utilize]~~ use anything so received for ~~[purposes enumerated~~
14 ~~in this~~
15 ~~section, and to reimburse the agent for any expenditures~~
16 ~~properly made~~
17 ~~by him in the execution of the powers conferred on him by the~~
18 ~~statutory~~
19 ~~short form power of attorney]~~ a lawful purpose;
20 ~~[5-] 6. To prosecute, [to] defend, [to] submit to~~
21 ~~[arbitration] alter-~~
22 ~~native dispute resolution, [to] settle, and [to] propose or~~
23 ~~[to] accept~~
24 ~~a compromise with respect to[7] any [claim existing in favor~~
25 ~~of, or~~
26 ~~against, the principal based on or involving any benefits from~~
27 ~~military~~
28 ~~service or to intervene in any action or proceeding relating~~
29 ~~thereto]~~
30 benefit or assistance described in subdivision four of this
31 section;
32 7. To communicate with any representative or employee of a
33 government,
34 governmental subdivision, agency, or instrumentality on
35 behalf of the
36 principal;
37 ~~[6-] 8. To hire, [to] discharge, and [to] compensate any~~
38 ~~attorney,~~
39 ~~accountant, expert witness, or other assistant or assistants~~
40 ~~when the~~
41 ~~agent shall think such action to be desirable for the proper~~
42 ~~execution~~
43 ~~[by him] of any of the powers described in this section; and~~
44 ~~[7-] 9. In general, and in addition to all the specific~~
45 ~~acts in this~~
46 ~~section enumerated, to do any other act or acts, which the~~
47 ~~principal can~~
48 ~~do through an agent, and which the agent shall think to be~~
49 ~~desirable or~~
50 ~~necessary, to assure to the principal, and to the~~
51 ~~dependents of the~~
52 ~~principal, the maximum possible benefit from [the] governmental~~
53 ~~programs~~
54 ~~or from civil or~~ military service performed prior to or
55 ~~after the~~
56 ~~creation of the agency by the principal or by any person~~
57 ~~related by~~
58 ~~blood or marriage to the principal.~~
59 ~~All powers described in this section [5-1502J of the~~
60 ~~general obli-~~
61 ~~gations law]~~ shall be exercisable equally with respect to any
62 ~~benefits~~
63 ~~from governmental programs or civil or military service~~
64 ~~existing at the~~
65 ~~and whether~~
66 ~~giving of the power of attorney or thereafter accruing,~~
67 ~~and whether~~
68 ~~accruing in the state of New York or elsewhere.~~
69 ~~§ 12. Section 5-1502K of the general obligations law is~~
70 ~~amended to~~

44 read as follows:

45 § 5-1502K. Construction--health care billing and payment
matters;

46 records, reports and statements. In a statutory short form
power of

47 attorney, the language conferring general authority with
respect to

48 [~~"records, reports and statements,"~~] "health care billing and
payment

49 matters; records, reports and statements," or in a statutory
short form

50 power of attorney properly executed in accordance with the
laws in

51 effect at the time of its execution, the language conferring
authority

52 with respect to "records, reports and statements," must be
construed to

53 mean that the principal authorizes the agent:

54 1. To access records relating to the provision of health
care and to

55 make decisions relating to the past, present or future payment
for the

56 provision of health care consented to by or on behalf of the
principal

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1 or the principal's health care agent authorized under state
law. In so

2 doing the agent is acting as the principal's personal
representative

3 pursuant to sections 1171 through 1179 of the Social Security
Act, as

4 added by sections 262 and 264 of Public Law 104-191, and
applicable

5 regulations. This authority shall not include authorization
for the

6 agent to make other medical or health care decisions for the
principal;

7 2. To keep records of all cash received and disbursed
for or on

8 account of the principal, of all credits and debits to the
account of

9 the principal, and of all transactions affecting in any way
the assets

10 and liabilities of the principal;

11 [~~2-~~] 3. To prepare, to execute and to file all tax, social
security,

12 unemployment insurance and information returns, required by
the laws of

13 the United States, of any state or of any subdivision thereof
or of any

14 foreign government, to prepare, to execute and to file all
other papers

15 and instruments which the agent shall think to be desirable or
necessary

16 for the safeguarding of the principal against excess or illegal
taxation

17 or against penalties imposed for claimed violation of any law
or other
18 governmental regulation;
19 ~~[3-]~~ 4. To prepare, to execute and to file any record,
report ~~[or],~~
20 statement, ~~[which the agent shall think to be desirable or~~
~~necessary for~~
21 ~~the safeguarding or maintenance of]~~ or other document to
safeguard or
22 promote the principal's interest, ~~[with respect to price,~~
~~rent, wage or~~
23 ~~rationing control, or other governmental activity]~~ under a
statute or
24 governmental regulation;
25 ~~[4-]~~ 5. To hire, to discharge, and to compensate any
attorney,
26 accountant, or other assistant or assistants when the agent
shall think
27 such action to be desirable for the proper execution by him
of any of
28 the powers described in this section; and
29 ~~[5-]~~ 6. In general, and in addition to all the specific acts
in this
30 section enumerated, to do any other act or acts, which the
principal can
31 do through an agent, in connection with the preparation,
execution,
32 filing, storage or other utilization of any records, reports
or state-
33 ments of or concerning the principal's affairs.
34 All powers described in this section ~~[5-1502K of the~~
~~general obli-~~
35 ~~gations law]~~ shall be exercisable equally with respect to
any health
36 care billing and payment matters, and records, reports or
statements of
37 or concerning the affairs of the principal existing at the
giving of the
38 power of attorney or thereafter arising, and whether arising
in the
39 state of New York or elsewhere.
40 § 13. Subdivisions 2 and 4 of section 5-1502L of the
general obli-
41 gations law, subdivision 2 as amended by chapter 500 of the
laws of 1996
42 and subdivision 4 as added by chapter 499 of the laws of
1996, are
43 amended to read as follows:
44 2. To make investment directions, to select and
change payment
45 options, ~~[to designate a beneficiary or beneficiaries,~~
~~provided, howev-~~
46 ~~er, that the agent may not designate herself or himself as a~~
~~beneficiary~~
47 ~~unless the agent is a spouse, child, grandchild, parent,~~
~~brother or~~

48 ~~sister of the principal or unless the short form power of attorney~~

49 ~~permits the agent to designate himself or herself,~~] and to exercise any

50 other election for the principal with regard to any retirement benefit

51 or plan in which the principal has an interest, provided, however, that

52 the authority granted hereby shall not include the authority to add,

53 delete, or otherwise change the designation of beneficiaries in effect

54 for any such retirement benefit or plan, unless the authority to make

55 such additions, deletions or changes is conveyed in a statutory major

56 gifts rider to a statutory short form power of attorney or in a non-sta-

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1 tutory power of attorney signed and dated by the principal with the

2 signature of the principal duly acknowledged in the manner prescribed

3 for the acknowledgment of a conveyance of real property, and which is

4 executed pursuant to the requirements of paragraph (b) of subdivision

5 nine of section 5-1514 of this title;

6 4. To prepare, execute and deliver any application, agreement, [~~trust~~

7 ~~agreement,~~] authorization, check or other instrument or document which

8 may be required under the terms of any retirement benefit or plan in

9 which the principal has an interest or by the administrator thereof, or

10 which the agent deems useful for the accomplishment of any of the

11 purposes enumerated in this section;

12 § 14. Section 5-1502M of the general obligations law is REPEALED.

13 § 15. Section 5-1502N of the general obligations law is redesignated

14 section 5-1502M and the closing paragraph, as added by chapter 499 of

15 the laws of 1996, is amended to read as follows:

16 The powers explicitly authorized in the provisions of this section

17 [~~5-1502N of the general obligations law~~] shall not be construed to

18 diminish any like powers authorized in any other section of this

19 [~~15 of article 5 of the general obligations law~~], such as, but not

20 limited to, those authorized in subdivision 9 of section 5-1502I of this

21 title. Accordingly, such powers as are authorized in any
other section
22 of this title [~~15 of article 5 of the general obligations law~~]
shall be
23 construed as if the provisions of this section do not exist.
24 § 16. Section 5-15020 of the general obligations law, as
amended by
25 chapter 499 of the laws of 1996, is amended to read as follows:
26 § [~~5-15020~~] 5-1502N. Construction--all other matters. In a
statutory
27 short form power of attorney, the language conferring general
authority
28 with respect to "all other matters" must be construed to mean
that the
29 principal authorizes the agent to act as an alter ego of the
principal
30 with respect to any and all possible matters and affairs
which are not
31 enumerated in sections 5-1502A to [~~5-1502N~~] 5-1502M, inclusive,
of this
32 [~~chapter~~] title, and which the principal can do through
an agent[
33 ~~except~~]; provided, however, that such authority shall not
include
34 authorization for the agent to designate a third party to act
as agent
35 for the principal or to make medical or other health care
decisions for
36 the principal, except as otherwise provided in
subdivision one of
37 section 5-1502K of this title.
38 § 17. Section 5-1503 of the general obligations law, as
amended by
39 chapter 499 of the laws of 1996, is amended to read as follows:
40 § 5-1503. Modifications of the statutory short form power of
attorney
41 and of the statutory major gifts rider. A power of attorney
which satis-
42 fies the requirements of [~~subdivision two of section 5-1501~~
~~of this~~
43 ~~chapter or of subdivision six of section 5-1506 of this~~
~~chapter~~] para-
44 graphs (a), (b) and (c) of subdivision one of section 5-
1501B and
45 section 5-1513 of this title is not prevented from being a
"statutory
46 short form power of attorney", [~~or a "statutory short form~~
~~power of~~
47 ~~attorney effective at a future time",~~] and a document which
satisfies
48 the requirements of section 5-1514 of this title is not
prevented from
49 being a "statutory major gifts rider" as either of these
[~~phrases~~] terms
50 is used in the sections of this title, by the fact that it also
contains

51 additional language at the section labeled "modifications"
which:
52 1. Eliminates from the statutory short form power of
attorney or from
53 the statutory major gifts rider one or more of the powers
enumerated in
54 one or more of the constructional sections of this title with
respect to
55 a subdivision of the statutory short form power of attorney[~~or of the~~
~~statutory short form power of attorney effective at a future~~
56 ~~time,~~] or
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1 of the statutory major gifts rider, affirmatively chosen by
the princi-
2 pal; or
3 2. Supplements one or more of the powers enumerated in one
or more of
4 the constructional sections in this title with respect to a
subdivision
5 of the statutory short form power of attorney[~~or of the~~
~~statutory~~
6 ~~short form power of attorney effective at a future time,~~] or
of the
7 statutory major gifts rider, affirmatively chosen by the
principal, by
8 specifically listing additional powers of the agent; or
9 3. Makes some additional provision which is not inconsistent
with the
10 other provisions of the statutory short form power of
attorney [~~or of~~
11 ~~the statutory short form power of attorney effective at a~~
~~future time]~~
12 or of the statutory major gifts rider.
13 § 18. Section 5-1504 of the general obligations law, as
amended by
14 chapter 499 of the laws of 1996, is amended to read as follows:
15 § 5-1504. Acceptance of statutory short form power of
attorney. 1.
16 [~~As used in this section, the term "financial institution"~~
~~means each of~~
17 ~~the following: a bank, trust company, national bank,~~
~~savings bank,~~
18 ~~federal mutual savings bank, savings and loan association,~~
~~federal~~
19 ~~savings and loan association, federal mutual savings and~~
~~loan associ-~~
20 ~~ation, credit union, federal credit union, branch of a foreign~~
~~banking~~
21 ~~corporation, public pension fund, retirement system.~~
22 ~~2.] No [~~financial institution~~] third party located in this
state shall
23 refuse, without reasonable cause, to honor a statutory short
form power
24 of attorney properly executed in accordance with section
[~~5-1501~~ or~~

25 ~~5-1506]~~ 5-1501B of this title, including a statutory short form
power of
26 attorney which is supplemented by a statutory major gifts
rider, or a
27 statutory short form power of attorney properly executed in
accordance
28 with the laws in effect at the time of its execution.
29 ~~[3. The failure of a financial institution]~~ (a) Reasonable
cause under
30 this subdivision shall include, but not be limited to:
31 (1) the refusal by the agent to provide an original power of
attorney
32 or a copy certified by an attorney pursuant to rule twenty-one
hundred
33 five of the civil practice law and rules, or by a court or
other govern-
34 ment entity;
35 (2) the third party's good faith referral of the
principal and the
36 agent to the local adult protective services unit;
37 (3) actual knowledge of a report having been made by any
person to the
38 local adult protective services unit alleging physical or
financial
39 abuse, neglect, exploitation or abandonment of the
principal by the
40 agent;
41 (4) actual knowledge of the principal's death or a
reasonable basis
42 for believing the principal has died;
43 (5) actual knowledge of the incapacity of the principal or
a reason-
44 able basis for believing that the principal is incapacitated
where the
45 power of attorney tendered is a nondurable power of attorney;
46 (6) actual knowledge or a reasonable basis for believing
that the
47 principal was incapacitated at the time the power of
attorney was
48 executed;
49 (7) actual knowledge or a reasonable basis for believing
that the
50 power of attorney was procured through fraud, duress or undue
influence;
51 (8) actual notice, pursuant to subdivision three of this
section, of
52 the termination or revocation of the power of attorney; or
53 (9) the refusal by a title insurance company to
underwrite title
54 insurance for a transfer of real property made pursuant to a
major gifts
55 rider or non-statutory power of attorney that does not contain
express
56 instructions or purposes of the principal.

1 (b) It shall be deemed unreasonable for a third party to
2 refuse to
3 honor a statutory short form power of attorney, including a
4 statutory
5 short form power of attorney which is supplemented by a
6 statutory major
7 gifts rider, or a statutory short form power of attorney
8 properly
9 executed in accordance with the laws in effect at the
10 time of its
11 execution, if the only reason for the refusal is any of the
12 following:
13 (1) the power of attorney is not on a form prescribed by
14 the third
15 party to whom the power of attorney is presented.
16 (2) there has been a lapse of time since the execution of the
17 power of
18 attorney.
19 (3) on the face of the statutory form power of attorney,
20 there is a
21 lapse of time between the date of acknowledgment of the
22 signature of the
23 principal and the date of acknowledgment of the signature of
24 any agent.
25 2. Except as provided in subdivision three of this section,
26 it shall
27 be deemed unlawful for a third party to unreasonably refuse
28 to honor a
29 properly executed statutory short form power of attorney
30 [shall be
31 deemed unlawful], including a statutory short form power of
32 attorney
33 which is supplemented by a statutory major gifts rider, or a
34 statutory
35 short form power of attorney properly executed in accordance
36 with the
37 laws in effect at the time of its execution. A special
38 proceeding as
39 authorized by section 5-1510 of this title shall be the
40 exclusive remedy
41 for a violation of this section.
42 [4. No financial institution] 3. In the absence of actual
43 knowledge
44 that the principal lacked capacity to execute a statutory
45 short form
46 power of attorney or that the statutory short form power of
47 attorney was
48 procured through fraud, duress or undue influence, no
49 third party
50 receiving and retaining a properly executed statutory short
51 form power
52 of attorney [properly executed in accordance with section-
53 5-1501 or
54 5-1506 of this title], including a statutory short form power
55 of attor-
56 ney which is supplemented by a statutory major gifts rider or a
57 statuto-

31 ry short form power of attorney properly executed in accordance
with the

32 laws in effect at the time of its execution, or a complete
photostatic

33 copy of the properly executed original thereof nor any
officer, agent,

34 attorney-in-fact or employee of such [~~financial institution~~]
third party

35 shall incur any liability by reason of acting upon the
authority thereof

36 unless the [~~financial institution~~] third party shall have
[~~actually~~]

37 received[, ~~at the office where the account is located,~~
~~written~~] actual

38 notice of the revocation or termination of such power of
attorney.

39 [~~5-~~] If a principal maintains an account at a financial
institution,

40 the financial institution is deemed to have actual notice after
it has

41 had a reasonable opportunity to act on a written notice of
the revoca-

42 tion or termination following its receipt of the same at
its office

43 where such account is located.

44 4. If the application of the provisions of subdivision one
or two [~~or~~

45 ~~three~~] of this section shall be held invalid to any [~~financial~~
~~institu-~~

46 ~~tion~~] third party the application of such provisions to
any [~~other~~

47 ~~financial institution~~] third party other than those to which it
is held

48 invalid, shall not be affected thereby.

49 5. When the power of attorney is presented to a third party,
it shall

50 not be deemed unreasonable for a third party to require the
agent to

51 execute an acknowledged affidavit pursuant to this
subdivision stating

52 that the power of attorney is in full force and effect. Such an
affida-

53 vit is conclusive proof to the third party relying on the
power of

54 attorney that the power of attorney is valid and effective, and
has not

55 been terminated or revoked, except as to any third party who
had actual

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1 notice that the power of attorney had terminated or been
revoked prior

2 to the execution of the affidavit. Such affidavit shall state
that:

3 (a) the agent does not have, at the time of the
transaction, actual

4 notice of the termination or revocation of the power of
attorney, or
5 notice of any facts indicating that the power of attorney
has been
6 terminated or revoked;

7 (b) the agent does not have, at the time of the
transaction, actual
8 notice that the power of attorney has been modified in any
way that

9 would affect the ability of the agent to authorize or engage
in the
10 transaction, or notice of any facts indicating that the power
of attor-

11 ney has been so modified; and
12 (c) if the agent was named as a successor agent, the prior
agent is no
13 longer able or willing to serve.

14 6. Nothing in this section shall require the acceptance of a
form that

15 is not a statutory short form power of attorney.
16 § 19. Sections 5-1505 and 5-1506 of the general obligations
law are

17 REPEALED and ten new sections 5-1505, 5-1506, 5-1507, 5-
1508, 5-1509,

18 5-1510, 5-1511, 5-1512, 5-1513 and 5-1514 are added to read as
follows:

19 § 5-1505. Standard of care; fiduciary duty; compelling
disclosure of

20 record. 1. Standard of care. In dealing with property of
the princi-

21 pal, an agent shall observe the standard of care that would be
observed

22 by a prudent person dealing with property of another.

23 2. Fiduciary duty. (a) An agent acting under a power of
attorney has

24 a fiduciary duty to the principal. The fiduciary duty includes
each of

25 the following obligations:

26 (1) To act according to any instructions from the principal
or, where

27 there are no instructions, in the best interest of the
principal, and to

28 avoid conflicts of interest.

29 (2) To keep the principal's property separate and distinct
from any

30 other property owned or controlled by the agent, except for
property

31 that is jointly owned by the principal and agent at the time
of the

32 execution of the power of attorney, and property that
becomes jointly

33 owned after the execution of the power of attorney as the
result of the

34 agent's acquisition of an interest in the principal's property
by reason

35 of the agent's exercise of authority granted in a statutory
major gifts

36 rider or in a non-statutory power of attorney signed and dated
by the
37 principal with the signature of the principal duly
acknowledged in the
38 manner prescribed for the acknowledgment of a conveyance of
real proper-
39 ty, and which is executed pursuant to the requirements of
paragraph (b)
40 of subdivision nine of section 5-1514 of this title. The
agent may not
41 transfer the principal's property to himself or herself without
specific
42 authorization.
43 (3) To keep a record of all receipts, disbursements, and
transactions
44 entered into by the agent on behalf of the principal and to
make such
45 record and power of attorney available at the request of the
principal.
46 The agent shall make such record and a copy of the power of
attorney
47 available within fifteen days of a written request by any of
the follow-
48 ing:
49 (i) a monitor;
50 (ii) a co-agent or successor agent acting under the power of
attorney;
51 (iii) a government entity, or official thereof, investigating
a report
52 that the principal may be in need of protective or other
services, or
53 investigating a report of abuse or neglect;
54 (iv) a court evaluator appointed pursuant to section 81.09
of the
55 mental hygiene law;

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1 (v) a guardian ad litem appointed pursuant to section
seventeen
2 hundred fifty-four of the surrogate's court procedure act;
3 (vi) the guardian or conservator of the estate of the
principal, if
4 such record has not already been provided to the court
evaluator or
5 guardian ad litem; or
6 (vii) the personal representative of the estate of a
deceased princi-
7 pal if such record has not already been provided to the
guardian or
8 conservator of the estate of the principal.
9 The failure of the agent to make the record available
pursuant to this
10 paragraph may result in a special proceeding under
subdivision one of
11 section 5-1510 of this title. Such proceeding shall be the
exclusive
12 remedy to compel the agent to provide such record.

13 (b) The agent may be subject to liability for conduct or
14 omissions

14 which violate the fiduciary duty.

15 (c) The agent is not liable to third parties for any act
16 pursuant to a

16 power of attorney if the act was authorized at the time and the
17 act did

17 not violate subdivision one or two of this section.

18 3. Resignation. (a) An agent who has signed the power of
19 attorney may

19 resign by giving written notice to the principal and the
20 agent's co-a-

20 gent, successor agent or the monitor, if one has been
21 named, or the

21 principal's guardian if one has been appointed. If no co-agent,
22 succes-

22 sor agent, monitor or guardian is known to the agent and the
23 principal

23 is incapacitated or the agent has notice of any facts
24 indicating the

24 principal's incapacity, the agent may give written notice to
25 a govern-

25 ment entity having authority to protect the welfare of the
26 principal, or

26 may petition the court to approve the resignation.

27 (b) The principal may provide for alternative means for an
28 agent's

28 resignation in the power of attorney.

29 § 5-1506. Compensation. 1. An agent is not entitled
30 to receive

30 compensation from the assets of the principal for
31 responsibilities

31 performed under a power of attorney unless the principal
32 specifically

32 provides for compensation in the power of attorney.

33 2. An agent shall be entitled to receive reimbursement from
34 the assets

34 of the principal for reasonable expenses actually incurred in
35 connection

35 with the performance of the agent's responsibilities.

36 § 5-1507. Signature of agent. 1. (a) In any transaction
37 where the

37 agent is acting pursuant to a power of attorney and where the
38 hand-writ-

38 ten signature of the agent or principal is required, the
39 agent shall

39 disclose the principal and agent relationship by:

40 (1) signing "(name of agent) as agent for (name of
41 principal)"; or

41 (2) signing "(name of principal) by (name of agent), as
42 agent"; or

42 (3) any similar written disclosure of the principal
43 and agent

43 relationship.

44 (b) A third party shall incur no liability for accepting a
45 signature

45 that does not meet the requirements of this subdivision.

46 2. When the agent engages in a transaction on behalf of the
47 principal,
48 the agent is attesting that:
49 (a) the agent has actual authority to engage in the
50 transaction;
51 (b) the agent does not have, at the time of the
52 transaction, actual
53 notice of the termination or revocation of the power of
54 attorney, or
55 notice of any facts indicating that the power of attorney
56 has been
57 terminated or revoked;
58 (c) if the power of attorney is one which terminates upon
59 the princi-
60 pal's incapacity, the agent does not have, at the time of
61 the trans-
62 action actual notice of the principal's incapacity, or
63 notice of any
64 facts indicating the principal's incapacity.

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1 (d) the agent does not have, at the time of the
2 transaction, actual
3 notice that the power of attorney has been modified in any
4 way that
5 would affect the ability of the agent to engage in the
6 transaction, or
7 notice of any facts indicating that the power of attorney
8 has been so
9 modified.
10 3. The attestation of the agent pursuant to subdivision
11 two of this
12 section is not effective as to any third party who had
13 actual notice
14 that the power of attorney had terminated or been revoked
15 prior to the
16 transaction.
17 § 5-1508. Co-agents and successor agents. 1. A principal
18 may desig-
19 nate two or more persons to act as co-agents. Unless the
20 principal
21 provides otherwise in the power of attorney, the co-agents
22 must act
23 jointly. However, if prompt action is required to accomplish
24 a purpose
25 of the power of attorney and to avoid irreparable injury to the
26 princi-
27 pal's interest and a co-agent is unavailable because of
28 absence, illness
29 or other temporary incapacity, the other co-agent or co-
30 agents may act
31 for the principal. Unless the principal provides otherwise in
32 the power
33 of attorney, if a vacancy occurs because of the death,
34 resignation or
35 incapacity of a co-agent, the remaining agent or agents may
36 act for the

20 principal.
21 2. A principal may designate one or more successor agents to
serve if
22 every initial or predecessor agent resigns, dies, becomes
incapacitated,
23 is not qualified to serve or declines to serve. Unless the
principal
24 provides otherwise in the power of attorney, a successor agent
has the
25 same authority as that granted to an initial agent.
26 3. A co-agent or a successor agent acting under a power of
attorney
27 shall have the authority to request, receive and seek to compel
a co-a-
28 gent or predecessor agent to provide a record of all receipts,
disburse-
29 ments and transactions entered into by the agent on behalf of
the prin-
30 cipal.
31 § 5-1509. Appointment of monitor. A principal may appoint a
monitor
32 or monitors in the power of attorney who shall have the
authority to
33 request, receive and compel the agent to provide a record
of all
34 receipts, disbursements and transactions entered into by the
agent on
35 behalf of the principal, to request and receive such records
held by
36 third parties, and to request and receive a copy of the power
of attor-
37 ney. Nothing in this title shall be construed to impose a
fiduciary duty
38 on the monitor.
39 § 5-1510. Special proceedings. 1. If the agent has failed
to make
40 available a copy of the power of attorney and/or a
record of all
41 receipts, disbursements, and transactions entered into by the
agent on
42 behalf of a principal to a person who may request such record
pursuant
43 to subparagraph three of paragraph (a) of subdivision two of
section
44 5-1505 of this title, that person may commence a special
proceeding to
45 compel the agent to produce a copy of the power of attorney
and such
46 record.
47 2. A special proceeding may be commenced pursuant to this
section for
48 any of the following additional purposes:
49 (a) to determine whether the power of attorney is valid;
50 (b) to determine whether the principal had capacity at the
time the
51 power of attorney was executed;

52 (c) to determine whether the power of attorney was
procured through
53 duress, fraud or undue influence;
54 (d) to determine whether the agent is entitled to receive
compensation
55 or whether the compensation received by the agent is reasonable
for the
56 responsibilities performed;

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1 (e) to approve the record of all receipts, disbursements
and trans-
2 actions entered into by the agent on behalf of the principal;
3 (f) to remove the agent upon the grounds that the agent has
violated,
4 or is unfit, unable, or unwilling to perform, the fiduciary
duties under
5 the power of attorney;
6 (g) to determine how multiple agents must act;
7 (h) to construe any provision of a power of attorney;
8 (i) to compel acceptance of the power of attorney in which
event the
9 relief to be granted is limited to an order compelling
acceptance.

10 A special proceeding may also be commenced by an agent who
wishes to

11 obtain court approval of his or her resignation.

12 3. A special proceeding may be commenced pursuant to
subdivision two

13 of this section by any person identified in subparagraph three
of para-

14 graph (a) of subdivision two of section 5-1505 of this title,
the agent,

15 the spouse, child or parent of the principal, the principal's
successor

16 in interest, or any third party who may be required to accept a
power of

17 attorney.

18 4. If a power of attorney is suspended or revoked under this
section,

19 or the agent is removed by the court, the court may require the
agent to

20 provide a record of all receipts, disbursements and
transactions entered

21 into by the agent on behalf of the principal and to deliver any
property

22 belonging to the principal and copies of records concerning the
princi-

23 pal's property and affairs to a successor agent, a government
entity or

24 the principal's legal representative.

25 § 5-1511. Termination or revocation of power of attorney;
notice. 1.

26 A power of attorney terminates when:

27 (a) the principal dies;

28 (b) the principal becomes incapacitated, if the power of
attorney is

29 not durable;
30 (c) the principal revokes the power of attorney;
31 (d) the principal revokes the agent's authority and there is
no co-a-
32 gent or successor agent, or no co-agent or successor agent who
is will-
33 ing or able to serve;
34 (e) the agent dies, becomes incapacitated or resigns and
there is no
35 co-agent or successor agent or no co-agent or successor
agent who is
36 willing or able to serve;
37 (f) the authority of the agent terminates and there is no co-
agent or
38 successor agent or no co-agent or successor agent who is
willing or able
39 to serve;
40 (g) the purpose of the power of attorney is accomplished; or
41 (h) a court order revokes the power of attorney as provided
in section
42 5-1510 of this title or in section 81.29 of the mental hygiene
law.

43 2. An agent's authority terminates when:
44 (a) the principal revokes the agent's authority;
45 (b) the agent dies, becomes incapacitated or resigns;
46 (c) the agent's marriage to the principal is terminated by
divorce,
47 annulment or declaration of nullity, unless the power of
attorney
48 expressly provides otherwise. If the authority of an agent
is revoked
49 solely by this subdivision, it shall be revived by the
principal's
50 remarriage to the former spouse; or
51 (d) the power of attorney terminates.
52 3. A principal may revoke a power of attorney;
53 (a) in accordance with the terms of the power of attorney;
54 (b) by delivering a written, signed and dated revocation of
the power
55 of attorney as follows:

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1 (1) to the agent, and the agent must comply with the
principal's revo-
2 cation notwithstanding the actual or perceived incapacity of
the princi-
3 pal unless the principal is subject to a guardianship under
article
4 eighty-one of the mental hygiene law; and
5 (2) to any third party that the principal has reason to
believe has
6 received, retained or acted upon, the power of attorney.
7 4. Where the power of attorney has been recorded pursuant to
section
8 two hundred ninety-four of the real property law, the
principal shall

9 also record a written revocation pursuant to section three
10 hundred twen-
11 ty-six of the real property law. Notwithstanding the
12 recording of a
13 revocation, a third party must have actual notice of the
14 revocation for
15 the revocation to be effective.

16 5. Termination of an agent's authority or of the power of
17 attorney is
18 not effective as to any third party who has not received
19 actual notice
20 of the termination and acts in good faith under the power of
21 attorney.

22 Any action so taken, unless otherwise invalid or
23 unenforceable, shall
24 bind the principal and the principal's successors in interest.

25 A finan-
26 cial institution is deemed to have actual notice after it
27 has had a
28 reasonable opportunity to act on a written notice of the
29 revocation or
30 termination following receipt of the same at its office where
31 an account
32 is located.

33 6. Unless the principal expressly provides otherwise, the
34 execution of
35 a power of attorney revokes any and all prior powers of
36 attorney
37 executed by the principal.

38 § 5-1512. Powers of attorney executed in other jurisdictions.
39 A power
40 of attorney executed in another state or jurisdiction in
41 compliance with
42 the law of that state or jurisdiction or the law of this state
43 is valid
44 in this state, regardless of whether the principal is a
45 domiciliary of
46 this state.

47 § 5-1513. Statutory short form power of attorney. 1. The use
48 of the
49 following form in the creation of a power of attorney is
50 lawful, and,
51 when used, and executed in accordance with subdivision one of
52 section
53 5-1501B of this title, it shall be construed as a statutory
54 short form
55 power of attorney in accordance with the provisions of this
56 title:

57 "POWER OF ATTORNEY
58 NEW YORK STATUTORY SHORT FORM
59 (a) CAUTION TO THE PRINCIPAL: Your Power of Attorney is an
60 important
61 document. As the "principal," you give the person whom you
62 choose (your
63 "agent") authority to spend your money and sell or dispose of
64 your prop-

40 erty during your lifetime without telling you. You do not
41 lose your
42 authority to act even though you have given your agent similar
43 authority.

44 When your agent exercises this authority, he or she must act
45 according
46 to any instructions you have provided or, where there are no
47 specific
48 instructions, in your best interest. "Important
49 Information for the
50 Agent" at the end of this document describes your agent's
51 responsibil-
52 ities.

53 Your agent can act on your behalf only after signing the
54 Power of
55 Attorney before a notary public.

56 You can request information from your agent at any time. If
57 you are
58 revoking a prior Power of Attorney by executing this Power of
59 Attorney,
60 you should provide written notice of the revocation to
61 your prior

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62 agent(s) and to the financial institutions where your
63 accounts are
64 located.

65 You can revoke or terminate your Power of Attorney at any
66 time for any
67 reason as long as you are of sound mind. If you are no longer
68 of sound
69 mind, a court can remove an agent for acting improperly.

70 Your agent cannot make health care decisions for you. You may
71 execute
72 a "Health Care Proxy" to do this.

73 The law governing Powers of Attorney is contained in the
74 New York

75 General Obligations Law, Article 5, Title 15. This law is
76 available at a
77 law library, or online through the New York State Senate or
78 Assembly
79 websites, www.senate.state.ny.us or www.assembly.state.ny.us.

80 If there is anything about this document that you do not
81 understand,
82 you should ask a lawyer of your own choosing to explain it to
83 you.

84 (b) DESIGNATION OF AGENT(S):

85 I, _____, hereby
86 appoint:

87 name and address of principal

17 _____ as my
agent(s)
18 name(s) and address(es) of agent(s)
19 If you designate more than one agent above, they must act
together
20 unless you initial the statement below.

21 () My agents may act SEPARATELY.
22 (c) DESIGNATION OF SUCCESSOR AGENT(S): (OPTIONAL)
23 If every agent designated above is unable or unwilling to
serve, I
24 appoint as my successor agent(s):
25

26 _____
26 name(s) and address(es) of successor agent(s)
27 Successor agents designated above must act together unless you
initial
28 the statement below.

29 () My successor agents may act SEPARATELY.
30 (d) This POWER OF ATTORNEY shall not be affected by my
subsequent inca-
31 capacity unless I have stated otherwise below, under
"Modifications".

32 (e) This POWER OF ATTORNEY REVOKES any and all prior Powers of
Attorney
33 executed by me unless I have stated otherwise below, under
"Modifica-
34 tions."
35 If your are NOT revoking your prior Powers of Attorney, and
if you are
36 granting the same authority in two or more Powers of Attorney,
you must
37 also indicate under "Modifications" whether the agents
given these
38 powers are to act together or separately.

39 (f) GRANT OF AUTHORITY:
40 To grant your agent some or all of the authority below,
either
41 (1) Initial the bracket at each authority you grant, or
42 (2) Write or type the letters for each authority you
grant on the
43 blank line at (P), and initial the bracket at (P). If you
initial
44 (P), you do not need to initial the other lines.

45 I grant authority to my agent(s) with respect to the
following
46 subjects as defined in sections 5-1502A through 5-1502N
of the New
47 York General Obligations Law:
48 () (A) real estate transactions;
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1 () (B) chattel and goods transactions;

2 () (C) bond, share, and commodity transactions;
3 () (D) banking transactions;
4 () (E) business operating transactions;
5 () (F) insurance transactions;
6 () (G) estate transactions;
7 () (H) claims and litigation;
8 () (I) personal and family maintenance;
9 () (J) benefits from governmental programs or civil or
military
10 service;
11 () (K) health care billing and payment matters;
records,
12 reports, and statements;
13 () (L) retirement benefit transactions;
14 () (M) tax matters;
15 () (N) all other matters;
16 () (O) full and unqualified authority to my agent(s)
to dele-
17 gate any or all of the foregoing powers to any
person or
18 persons whom my agent(s) select;
19 () (P) EACH of the matters identified by the
following
20 letters_____.
21 You need not initial the other lines if you initial line (P).

22 (g) MODIFICATIONS: (OPTIONAL)
23 In this section, you may make additional provisions,
including
24 language to limit or supplement authority granted to your
agent.
25 However, you cannot use this Modifications section to grant
your agent
26 authority to make major gifts or changes to interests in your
property.
27 If you wish to grant your agent such authority, you MUST
complete the
28 Statutory Major Gifts Rider.
29 (h) MAJOR GIFTS AND OTHER TRANSFERS: STATUTORY MAJOR
GIFTS RIDER
30 (OPTIONAL)
31 In order to authorize your agent to make major gifts and
other trans-
32 fers of your property, you must initial the statement below
and execute
33 a Statutory Major Gifts Rider at the same time as this
instrument.
34 Initialing the statement below by itself does not authorize
your agent
35 to make major gifts and other transfers. The preparation of the
Statuto-
36 ry Major Gifts Rider should be supervised by a lawyer.
37 () (SMGR) I grant my agent authority to make major
gifts and
38 other transfers of my property, in accordance with the terms
and condi-

39 tions of the Statutory Major Gifts Rider that supplements this
Power of
40 Attorney.

41 (i) DESIGNATION OF MONITOR(S): (OPTIONAL)
42 I wish to designate _____, whose address(es)
is (are)
43 _____

_____ as
44 monitor(s). Upon the request of the monitor(s), my agent(s)
must provide
45 the monitor(s) with a copy of the power of attorney and a
record of all
46 transactions done or made on my behalf. Third parties holding
records of
47 such transactions shall provide the records to the
monitor(s) upon
48 request.

49 (j) COMPENSATION OF AGENT(S): (OPTIONAL)
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1 Your agent is entitled to be reimbursed from your assets for
reason-
2 able expenses incurred on your behalf. If you ALSO wish your
agent(s) to
3 be compensated from your assets for services rendered on
your behalf,
4 initial the statement below. If you wish to define "reasonable
compen-
5 sation", you may do so above, under "Modifications".
6 (____) My agent(s) shall be entitled to reasonable
compensation for
7 services rendered.

8 (k) ACCEPTANCE BY THIRD PARTIES: I agree to indemnify the
third party
9 for any claims that may arise against the third party because
of reli-
10 ance on this Power of Attorney. I understand that any
termination of
11 this Power of Attorney, whether the result of my revocation of
the Power
12 of Attorney or otherwise, is not effective as to a third party
until the
13 third party has actual notice or knowledge of the termination.

14 (l) TERMINATION: This Power of Attorney continues until I
revoke it or
15 it is terminated by my death or other event described in
section 5-1511
16 of the General Obligations Law.
17 Section 5-1511 of the General Obligations Law describes the
manner in
18 which you may revoke your Power of Attorney, and the events
which termi-

19 nate the Power of Attorney.

20 (m) SIGNATURE AND ACKNOWLEDGMENT:

21 In Witness Whereof I have hereunto signed my name on
_____ , 20____.

22 PRINCIPAL signs here:

==>

23 (acknowledgment)

24 (n) IMPORTANT INFORMATION FOR THE AGENT:

25 When you accept the authority granted under this Power of
Attorney, a

26 special legal relationship is created between you and the
principal.

27 This relationship imposes on you legal responsibilities that
continue

28 until you resign or the Power of Attorney is terminated or
revoked. You

29 must:

30 (1) act according to any instructions from the principal,
or, where

31 there are no instructions, in the principal's best interest;

32 (2) avoid conflicts that would impair your ability to act in
the prin-

33 cipal's best interest;

34 (3) keep the principal's property separate and distinct
from any

35 assets you own or control, unless otherwise permitted by law;

36 (4) keep a record of all receipts, payments, and
transactions

37 conducted for the principal; and

38 (5) disclose your identity as an agent whenever you act for
the prin-

39 cipal by writing or printing the principal's name and signing
your own

40 name as "agent" in either of the following manner: (Principal's
Name) by

41 (Your Signature) as Agent, or (your signature) as Agent for
(Principal's

42 Name).

43 You may not use the principal's assets to benefit
yourself or give

44 major gifts to yourself or anyone else unless the principal has
specif-

45 ically granted you that authority in this Power of
Attorney or in a

46 Statutory Major Gifts Rider attached to this Power of Attorney.
If you

47 have that authority, you must act according to any
instructions of the

48 principal or, where there are no such instructions, in the
principal's

49 best interest. You may resign by giving written notice to the
principal

50 and to any co-agent, successor agent, monitor if one has been
named in

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1 this document, or the principal's guardian if one has been
appointed. If
2 there is anything about this document or your responsibilities
that you

3 do not understand, you should seek legal advice.

4 Liability of agent:

5 The meaning of the authority given to you is defined in
New York's

6 General Obligations Law, Article 5, Title 15. If it is found
that you

7 have violated the law or acted outside the authority granted
to you in

8 the Power of Attorney, you may be liable under the law
for your

9 violation.

10 (o) AGENT'S SIGNATURE AND ACKNOWLEDGMENT OF APPOINTMENT:

11 It is not required that the principal and the agent(s)
sign at the

12 same time, nor that multiple agents sign at the same time.

13 I/we, _____, have read
the forego-

14 ing Power of Attorney. I am/we are the person(s) identified
therein as

15 agent(s) for the principal named therein.

16 I/we acknowledge my/our legal responsibilities.

17 Agent(s) sign(s)
here:==>_____

18 (acknowledgment(s))"

19 § 5-1514. Major gifts and other transfers; formal
requirements; statu-

20 tory form. 1. If the principal intends to authorize the
agent to make

21 gifts and transfers other than gifts authorized by subdivision
fourteen

22 of section 5-1502I of this title, the principal must
expressly grant

23 such authority either in a statutory major gifts rider to a
statutory

24 short form power of attorney or in a non-statutory power of
attorney

25 executed pursuant to the requirements of paragraph (b) of
subdivision

26 nine of this section.

27 2. The principal may authorize the agent to make gifts to
the princi-

28 pal's spouse, children and more remote descendents, and
parents, not to

29 exceed, for each donee, the annual federal gift tax
30 exclusion amount
31 pursuant to the Internal Revenue Code. For gifts to the
32 principal's
33 children and more remote descendants, and parents, the maximum
34 amount of
35 the gift to each donee shall not exceed twice the gift tax
36 exclusion
37 amount, if the principal's spouse agrees to split gift
38 treatment pursu-
39 ant to the Internal Revenue Code.
40 3. The principal may also authorize the agent to:
41 (a) make gifts up to a specified dollar amount, or
42 unlimited in
43 amount;
44 (b) make gifts to any person or persons;
45 (c) make the following specified transactions:
46 (1) open, modify or terminate a deposit account in the name
47 of the
48 principal and other joint tenants;
49 (2) open, modify or terminate any other joint account in
50 the name of
51 the principal and other joint tenants;
52 (3) open, modify or terminate a bank account in trust
53 form as
54 described in section 7-5.1 of the estates, powers and trusts
55 law, and
56 designate or change the beneficiary or beneficiaries of such
57 account;
58 (4) open, modify or terminate a transfer on death account as
59 described
60 in part four of article thirteen of the estates, powers and
61 trusts law,
62 and designate or change the beneficiary or beneficiaries
63 of such
64 account;
65 (5) change the beneficiary or beneficiaries of any contract
66 of insur-
67 ance on the life of the principal or annuity contract for the
68 benefit of
69 the principal;
70 (6) procure new, different or additional contracts of
71 insurance on the
72 life of the principal or annuity contracts for the benefit of
73 the prin-
74 cipal and designate the beneficiary or beneficiaries of
75 any such
76 contract;
77 (7) designate or change the beneficiary or beneficiaries of
78 any type
79 of retirement benefit or plan;
80 (8) create, amend, revoke, or terminate an inter vivos trust;
81 and
82 (9) create, change or terminate other property interests or
83 rights of

12 survivorship, and designate or change the beneficiary or
13 beneficiaries
14 therein.
15 A gift or other transfer to an individual authorized by this
16 subdivi-
17 sion may be made outright, to a trust established or created
18 for such
19 individual, to a Uniform Transfers to Minors Act account for
20 such indi-
21 vidual (regardless of who is the custodian), or to a tuition
22 savings
23 account or prepaid tuition plan as defined under section
24 529 of the
25 Internal Revenue Code for the benefit of such individual
26 (without regard
27 to who is the account owner or responsible individual for such
28 account).
29 4. An agent may not:
30 (a) exercise any authority described in subdivision two or
31 three of
32 this section unless such authority is expressly granted in a
33 statutory
34 major gifts rider to a statutory short form power of attorney
35 or in a
36 non-statutory power of attorney executed pursuant to the
37 requirements of
38 paragraph (b) of subdivision nine of this section;
39 (b) make a gift to himself or herself or create in himself
40 or herself
41 an interest in the principal's property pursuant to any grant
42 of author-
43 ity described in subdivision two or three of this section
44 unless such
45 authority is expressly granted in a statutory major gifts
46 rider to a
47 statutory short form power of attorney or in a non-statutory
48 power of
49 attorney executed pursuant to the requirements of
50 paragraph (b) of
51 subdivision nine of this section.
52 5. Any authority granted to an agent pursuant to subdivision
53 two or
54 three or paragraph (b) of subdivision four of this section must
55 be exer-
56 cised according to any instructions provided by the principal
57 or other-
58 wise for purposes which the agent reasonably deems to be in
59 the best
60 interest of the principal, specifically including financial,
61 estate, or
62 tax planning, including minimization of income, estate,
63 inheritance,
64 generation-skipping transfer or gift taxes.
65 6. Construction of the provisions of the statutory major
66 gifts rider.
67 (a) In a statutory major gifts rider to a statutory short form
68 power of

43 attorney, the language "I grant authority to my agent to make
gifts to
44 my spouse, children and more remote descendants, and
parents, not to
45 exceed, for each donee, the annual federal gift tax
exclusion amount
46 pursuant to the Internal Revenue Code. For gifts to my children
and more
47 remote descendants, and parents, the maximum amount of the
gift to each
48 donee shall not exceed twice the gift tax exclusion amount, if
my spouse
49 agrees to split gift treatment pursuant to the Internal
Revenue Code"
50 must be construed to mean that the principal authorizes the
agent:
51 (1) To make gifts on behalf of the principal to the
principal's
52 spouse, children and other descendants, and parents. Gifts to
a donee
53 shall not exceed in any calendar year the amount of the federal
gift tax
54 exclusion available to the principal under section 2503(b) of
the Inter-
55 nal Revenue Code. Gifts may be made outright or by exercise
or release
56 of a presently exercisable general power of appointment held
by the

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1 principal, to a trust established or created for such
individual
2 (provided that gifts to such trust qualify for the federal
gift tax
3 exclusion under section 2503(b) or (c) of the Internal Revenue
Code), to
4 a Uniform Transfers to Minors Act account for such individual
(regard-
5 less of who is the custodian), to a tuition savings account or
prepaid
6 tuition plan as defined under section 529 of the Internal
Revenue Code
7 for the benefit of such individual (without regard to who is
the account
8 owner of or responsible person for such account);
9 (2) To make gifts up to twice the annual federal gift tax
exclusion
10 amount on behalf of both the principal and the principal's
spouse, to
11 the principal's children and other descendants, and parents,
if the
12 principal's spouse consents to the splitting of such gifts
pursuant to
13 section 2513 of the Internal Revenue Code;
14 (3) To consent, pursuant to Section 2513(a) of the Internal
Revenue

15 Code, to the splitting of gifts made by the principal's
16 spouse to the
17 principal's children and other descendants in any amount, and
18 to the
19 splitting of gifts made by the principal's spouse to any
20 other persons
21 in amounts not exceeding the aggregate annual gift tax
22 exclusions for
23 both spouses under Section 2503(b) of said Code (or cognate
24 provisions
25 of any successor statute); and
26 (4) To satisfy pledges made to organizations, whether
27 charitable or
28 otherwise, by the principal; and
29 (b) Any authority granted to an agent under a statutory
30 major gifts
31 rider to a statutory short form power of attorney must be
32 construed to
33 mean that the principal authorizes the agent:
34 (1) To prepare, execute, consent to on behalf of the
35 principal, and
36 file any return, report, declaration or other document required
37 by the
38 laws of the United States, or by any state or political
39 subdivision
40 thereof, or by any foreign country or political subdivision
41 thereof,
42 which the agent deems to be desirable or necessary with
43 respect to any
44 gift made under the authority of this section;
45 (2) To execute, acknowledge, seal and deliver any deed,
46 assignment,
47 agreement, trust agreement, authorization, check, or other
48 instrument
49 which the agent deems useful for the accomplishment of any
50 of the
51 purposes enumerated in this section;
52 (3) To prosecute, defend, submit to alternative dispute
53 resolution,
54 settle and propose or accept a compromise with respect to
55 any claim
56 existing in favor of or against the principal based on or
57 involving any
58 gift transaction or to intervene in any related action or
59 proceeding;
60 (4) To hire, discharge and compensate any attorney,
61 accountant, expert
62 witness, or other assistant or assistants when the agent
63 deems that
64 action to be desirable for the proper execution by the agent
65 of any of
66 the authorities described in this section, and for the keeping
67 of needed
68 records thereof; and
69 (5) In general, and in addition to but not in contravention
70 of all the

46 specific acts listed in this section, to do any other act or
47 acts which
48 the agent deems desirable or necessary to complete any
49 such gift on
50 behalf of the principal.

51 (c) The authority explicitly authorized in this section
52 shall be
53 construed to include any like authority authorized in any
54 other section
55 of this title. Accordingly, such like authorities as are
56 authorized in
57 any other section of this title may not be exercised by the
58 agent unless
59 they are expressly granted to the agent in the statutory
60 major gifts
61 rider or in a non-statutory power of attorney executed pursuant
62 to the
63 requirements of paragraph (b) of subdivision nine of this
64 section.

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65 (d) The statutory major gifts rider may be modified
66 pursuant to
67 section 5-1503 of this title to contain additional provisions
68 authoriz-
69 ing the agent to make any or all of the transactions specified
70 in subdi-
71 vision three of this section.
72 7. All authority described in this section shall be
73 exercisable equal-
74 ly with respect to a gift of any property in which the
75 principal is
76 interested at the time the power of attorney is given or in
77 which the
78 principal becomes interested after that time, and whether
79 located in
80 this state or elsewhere.
81 8. If, after naming the spouse as a permissible recipient of
82 gifting
83 or other transfers, the principal is divorced, his or her
84 marriage is
85 annulled or its nullity declared, the divorce, annulment,
86 declaration of
87 nullity or dissolution revokes the authority to gift to
88 the former
89 spouse, unless the statutory major gifts rider or the non-
90 statutory
91 power of attorney executed pursuant to the requirements of
92 paragraph (b)
93 of subdivision nine of this section expressly provides
94 otherwise. If the
95 authority to gift to the former spouse is revoked solely by
96 this subdi-
97 vision, it shall be revived by the principal's remarriage to
98 the former
99 spouse.

20 9. To be valid, a statutory major gifts rider to a
21 statutory short
22 form power of attorney must:
23 (a) Be typed or printed using letters which are legible or
24 of clear
25 type no less than twelve point in size, or, if in writing, a
26 reasonable
27 equivalent thereof.
28 (b) Be signed and dated by a principal with capacity, with
29 the signa-
30 ture of the principal duly acknowledged in the manner
31 prescribed for the
32 acknowledgment of a conveyance of real property, and witnessed
33 by two
34 persons who are not named in the instrument as permissible
35 recipients of
36 gifts or other transfers, in the manner described at
37 paragraph two of
38 subdivision (a) of section 3-2.1 of the estates, powers and
39 trusts law.
40 (c) Be accompanied by a statutory short form power of
41 attorney in
42 which the authority (SMGR) is initialed by the principal.
43 (d) Be executed simultaneously with the statutory short form
44 power of
45 attorney and in the manner provided in this section.
46 10. The use of the following shall be construed as the
47 "Statutory
48 Major Gifts Rider" for a statutory short form power of
49 attorney:
50 "POWER OF ATTORNEY
51 NEW YORK STATUTORY MAJOR GIFTS RIDER
52 AUTHORIZATION TO MAKE MAJOR GIFTS OR OTHER TRANSFERS
53 CAUTION TO THE PRINCIPAL: This OPTIONAL rider allows you to
54 authorize
55 your agent to make major gifts or other transfers of your money
56 or other
57 property during your lifetime. Granting any of the following
58 authority
59 to your agent gives your agent the authority to take actions
60 which could
61 significantly reduce your property or change how your
62 property is
63 distributed at your death. "Major gifts or other
64 transfers" are
65 described in section 5-1514 of the General Obligations Law.
66 This Major
67 Gifts Rider does not require your agent to exercise granted
68 authority,
69 but when he or she exercises this authority, he or she must
70 act accord-
71 ing to any instructions you provide, or otherwise in your best
72 interest.
73 This Major Gifts Rider and the Power of Attorney it
74 supplements must
75 be read together as a single instrument.

52 Before signing this document authorizing your agent to
53 make major gifts and other transfers, you should seek legal advice to
54 ensure that your intentions are clearly and properly expressed.

55 (a) GRANT OF LIMITED AUTHORITY TO MAKE GIFTS

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1 Granting gifting authority to your agent gives your agent the
2 authori- ty to take actions which could significantly reduce your
3 property.

4 If you wish to allow your agent to make gifts to himself or
5 herself,
6 you must separately grant that authority in subdivision (c)
7 below.

8 To grant your agent the gifting authority provided below,
9 initial the
10 bracket to the left of the authority.

11 () I grant authority to my agent to make gifts to my
12 spouse, chil-
13 dren and more remote descendants, and parents, not to exceed,
14 for each

15 donee, the annual federal gift tax exclusion amount
16 pursuant to the
17 Internal Revenue Code. For gifts to my children and more remote
18 descend-

19 ants, and parents, the maximum amount of the gift to each
20 donee shall

21 not exceed twice the gift tax exclusion amount, if my spouse
22 agrees to

23 split gift treatment pursuant to the Internal Revenue Code.
24 This authority must be exercised pursuant to my instructions,
25 or other-

26 wise for purposes which the agent reasonably deems to be
27 in my best
28 interest.

29 (b) MODIFICATIONS:

30 Use this section if you wish to authorize gifts in excess of
31 the above
32 amount, gifts to other beneficiaries or other types of
33 transfers.

34 Granting such authority to your agent gives your agent the
35 authority to

36 take actions which could significantly reduce your
37 property and/or

38 change how your property is distributed at your death. If you
39 wish to

40 authorize your agent to make gifts or transfers to himself or
41 herself,

42 you must separately grant that authority in subdivision (c)
43 below.

44 () I grant the following authority to my agent to make gifts
45 or trans-

46 fers pursuant to my instructions, or otherwise for purposes
47 which the

48 agent reasonably deems to be in my best interest.

28 (c) GRANT OF SPECIFIC AUTHORITY FOR AN AGENT TO MAKE MAJOR
GIFTS OR
29 OTHER TRANSFERS TO HIMSELF OR HERSELF: (OPTIONAL)
30 If you wish to authorize your agent to make gifts or
transfers to
31 himself or herself, you must grant that authority in this
section, indi-
32 cating to which agent(s) the authorization is granted, and any
limita-
33 tions and guidelines.
34 () I grant specific authority for the following agent(s) to
make the
35 following major gifts or other transfers to himself or herself:
36 This authority must be exercised pursuant to my instructions,
or other-
37 wise for purposes which the agent reasonably deems to be
in my best
38 interest.
39 (d) ACCEPTANCE BY THIRD PARTIES: I agree to indemnify the
third party
40 for any claims that may arise against the third party because
of reli-
41 ance on this Major Gifts Rider.
42 (e) SIGNATURE OF PRINCIPAL AND ACKNOWLEDGMENT:
43 In Witness Whereof I have hereunto signed my name on

44 20_____.
45 PRINCIPAL signs here:
46 _____
47 (acknowledgement)
48 (f) SIGNATURES OF WITNESSES:
49 By signing as a witness, I acknowledge that the principal
signed the
50 Major Gifts Rider in my presence and the presence of the other
witness,
51 or that the principal acknowledged to me that the principal's
signature
52 was affixed by him or her or at his or her direction. I also
acknowledge
53 that the principal has stated that this Major Gifts Rider
reflects his
54 or her wishes and that he or she has signed it voluntarily.
I am not
55 named herein as a permissible recipient of major gifts.

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1	_____	_____
2	<u>Signature of witness 1</u>	<u>Signature of witness 2</u>
3	_____	_____
4	<u>Date</u>	<u>Date</u>
5	_____	_____
6	<u>Print name</u>	<u>Print name</u>
7	_____	_____
8	<u>Address</u>	<u>Address</u>
9	_____	_____
10	<u>City, State, Zip code</u>	<u>City, State, Zip code</u>
11	<u>(g) This document prepared by: _____</u>	<u>"</u>

12 § 20. Separability. If any provision of this act or the
application of
13 any provision thereof to any person or circumstance shall be
held inval-
14 id, the remainder of this act and the application of such
provision to
15 persons or circumstances other than those to which it is held
invalid
16 shall not be affected thereby.
17 § 21. This act shall take effect on the first of March next
succeeding
18 the date on which it shall have become a law; provided
that the
19 provisions of this act shall apply to all powers of attorney
executed on
20 or after the effective date of this act and the provisions of
this act
21 shall not affect the validity of any power of attorney or
the convey-
22 ance of authority to an attorney-in-fact or agent contained in
a power
23 of attorney executed prior to the effective date of this
act if such
24 power of attorney was valid at the time of its execution;
except that
25 sections eleven, twelve and eighteen of this act, and
sections 5-1505
26 and 5-1510 of the general obligations law, as added by section
nineteen
27 of this act, shall also apply to all powers of attorney
executed prior
28 to the effective date of this act.