

EFFECT: Creating a presumption in favor of terminating the power of attorney upon the incapacity of the principal unless express words make it durable.

1 AN ACT Relating to the uniform power of attorney act; amending  
2 RCW 11.88.080, 11.86.021, 11.88.010, 11.103.030, 30A.22.170,  
3 70.122.130, 71.32.020, 71.32.050, 71.32.060, 71.32.100, 71.32.180,  
4 71.32.200, and 71.32.260; adding a new chapter to Title 11 RCW; and  
5 repealing RCW 11.94.010, 11.94.020, 11.94.030, 11.94.040, 11.94.043,  
6 11.94.046, 11.94.050, 11.94.060, 11.94.070, 11.94.080, 11.94.090,  
7 11.94.100, 11.94.110, 11.94.120, 11.94.130, 11.94.140, 11.94.150,  
8 11.94.900, and 11.94.901.

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

10 **PART I**

11 NEW SECTION. **Sec. 101.** This act may be known and cited as the  
12 uniform power of attorney act.

13 NEW SECTION. **Sec. 102.** The definitions in this section apply  
14 throughout this chapter unless the context clearly requires  
15 otherwise.

16 (1) "Agent" means a person granted authority to act for a  
17 principal under a power of attorney, whether denominated an agent,  
18 attorney-in-fact, or otherwise. The term includes an original agent,

1 coagent, successor agent, and a person to which an agent's authority  
2 is delegated.

3 (2) "Durable," with respect to a power of attorney, means not  
4 terminated by the principal's incapacity.

5 (3) "Electronic" means relating to technology having electrical,  
6 digital, magnetic, wireless, optical, electromagnetic, or similar  
7 capabilities.

8 (4) "Good faith" means honesty in fact.

9 (5) "Incapacity" means inability of an individual to manage  
10 property, business, personal, or health care affairs because the  
11 individual:

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

15 (b) Is:

16 (i) An absentee, as defined in chapter 11.80 RCW; or

17 (ii) Outside the United States and unable to return.

18 (6) "Person" means an individual, corporation, business trust,  
19 estate, trust, partnership, limited liability company, association,  
20 joint venture, public corporation, government or governmental  
21 subdivision, agency, or instrumentality, or any other legal or  
22 commercial entity.

23 (7) "Power of attorney" means a writing that uses the term "power  
24 of attorney" and grants authority to an agent to act in the place of  
25 the principal.

26 (8) "Presently exercisable general power of appointment," with  
27 respect to property or a property interest subject to a power of  
28 appointment, means power exercisable at the time in question to vest  
29 absolute ownership in the principal individually, the principal's  
30 estate, the principal's creditors, or the creditors of the  
31 principal's estate. The term includes a power of appointment not  
32 exercisable until the occurrence of a specified event, the  
33 satisfaction of an ascertainable standard, or the passage of a  
34 specified period only after the occurrence of the specified event,  
35 the satisfaction of the ascertainable standard, or the passage of the  
36 specified period. The term does not include a power exercisable in a  
37 fiduciary capacity or only by will.

38 (9) "Principal" means an individual who grants authority to an  
39 agent in a power of attorney.

1 (10) "Property" means anything that may be the subject of  
2 ownership, whether real or personal, legal or equitable, tangible or  
3 intangible, or any interest or right therein.

4 (11) "State" means a state of the United States, the District of  
5 Columbia, Puerto Rico, the United States Virgin Islands, or any  
6 territory or insular possession subject to the jurisdiction of the  
7 United States.

8 (12) "Stocks, bonds, and financial instruments" means stocks,  
9 bonds, mutual funds, and all other types of securities and financial  
10 instruments, whether held directly, indirectly, or in any other  
11 manner. The term shall also include but not be limited to commodity  
12 futures contracts, call or put options on stocks or stock indexes,  
13 derivatives, and margin accounts.

14 NEW SECTION. **Sec. 103.** (1) This chapter applies to all powers  
15 of attorney except:

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

19 (b) A proxy or other delegation to exercise voting rights or  
20 management rights with respect to an entity; and

21 (c) A power created on a form prescribed by a government or  
22 governmental subdivision, agency, or instrumentality for a  
23 governmental purpose.

24 (2) Notwithstanding subsection (1) of this section, section 117  
25 of this act shall not apply to a power to make health care decisions  
26 under sections 217 and 218 of this act, nor shall it apply to the  
27 power to nominate a guardian for a minor child under section 218 of  
28 this act.

29 NEW SECTION. **Sec. 104.** The authority conferred under a power of  
30 attorney created prior to the effective date of this section, and  
31 also for a power of attorney created on or after the effective date  
32 of this section, terminates upon the incapacity of the principal  
33 unless the writing contains the words "This power of attorney shall  
34 not be affected by disability of the principal," or "This power of  
35 attorney shall become effective upon the disability of the  
36 principal," or similar words showing the intent of the principal that  
37 the authority conferred shall be exercisable notwithstanding the  
38 principal's incapacity.

1        NEW SECTION.    **Sec. 105.**    (1) A power of attorney must be signed  
2 and dated by the principal, and the signature must be either  
3 acknowledged before a notary public or other individual authorized by  
4 law to take acknowledgments, or attested by two or more competent  
5 witnesses who are neither home care providers for the principal nor  
6 care providers at an adult family home or long-term care facility in  
7 which the principal resides, and who are unrelated to the principal  
8 or agent by blood, marriage, or state registered domestic  
9 partnership, by subscribing their names to the power of attorney,  
10 while in the presence of the principal and at the principal's  
11 direction or request.

12        (2) A power of attorney shall be considered signed in accordance  
13 with this section if, in the case of a principal who is physically  
14 unable to sign his or her name, the principal makes a mark in  
15 accordance with RCW 11.12.030, or in the case of a principal who is  
16 physically unable to make a mark, the power of attorney is executed  
17 in accordance with RCW 64.08.100.

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

21        NEW SECTION.    **Sec. 106.**    (1) A power of attorney executed in this  
22 state on or after the effective date of this section is valid if its  
23 execution complies with section 105 of this act.

24        (2) A power of attorney executed in this state before the  
25 effective date of this section is valid if its execution complied  
26 with the law of this state as it existed at the time of execution.

27        (3) A power of attorney executed other than in this state is  
28 valid in this state if, when the power of attorney was executed, the  
29 execution complied with:

30        (a) The law of the jurisdiction that determines the meaning and  
31 effect of the power of attorney pursuant to section 107 of this act;  
32 or

33        (b) The requirements for a military power of attorney pursuant to  
34 10 U.S.C. Sec. 1044b, as amended.

35        (4) Except as otherwise provided by statute other than this act,  
36 a photocopy or electronically transmitted copy of an original power  
37 of attorney has the same effect as the original.

1        NEW SECTION.    **Sec. 107.**    The meaning and effect of a power of  
2 attorney is determined by the law of the jurisdiction indicated in  
3 the power of attorney and, in the absence of an indication of  
4 jurisdiction, by the law of the jurisdiction in which the power of  
5 attorney was executed.

6        NEW SECTION.    **Sec. 108.**    (1) In a power of attorney, a principal  
7 may nominate a guardian of the principal's estate or guardian of the  
8 principal's person for consideration by the court if protective  
9 proceedings for the principal's estate or person are begun after the  
10 principal executes the power of attorney. Except for good cause shown  
11 or disqualification, the court shall make its appointment in  
12 accordance with the principal's most recent nomination.

13        (2) If, after a principal executes a power of attorney, a court  
14 appoints a guardian of the principal's estate or other fiduciary  
15 charged with the management of all of the principal's property, the  
16 power of attorney is terminated and the agent's authority does not  
17 continue unless continued by the court.

18        (3) If, after a principal executes a power of attorney, a court  
19 appoints a guardian of the principal's estate or other fiduciary  
20 charged with the management of some but not all of the principal's  
21 property, the power of attorney shall not terminate or be modified,  
22 except to the extent ordered by the court.

23        NEW SECTION.    **Sec. 109.**    (1) A power of attorney is effective  
24 when executed unless the principal provides in the power of attorney  
25 that it becomes effective at a future date or upon the occurrence of  
26 a future event or contingency.

27        (2) If a power of attorney becomes effective upon the occurrence  
28 of a future event or contingency, the principal, in the power of  
29 attorney, may authorize one or more persons to determine in a writing  
30 that the event or contingency has occurred.

31        (3) If a power of attorney becomes effective upon the principal's  
32 incapacity and the principal has not authorized a person to determine  
33 whether the principal is incapacitated, or the person authorized is  
34 unable or unwilling to make the determination, the power of attorney  
35 becomes effective upon a determination in a writing by:

36        (a) A physician or licensed psychologist, unrelated to the  
37 principal or agent by blood or marriage, who has personally examined

1 the principal, that the principal is incapacitated within the meaning  
2 of section 102(5)(a) of this act; or

3 (b) A judge or an appropriate governmental official that the  
4 principal is incapacitated within the meaning of section 102(5)(b) of  
5 this act.

6 (4) A person authorized by the principal in the power of attorney  
7 to determine that the principal is incapacitated may act as the  
8 principal's personal representative pursuant to the health insurance  
9 portability and accountability act, sections 1171 through 1179 of the  
10 social security act, 42 U.S.C. Sec. 1320d, as amended, and applicable  
11 regulations, to obtain access to the principal's health care  
12 information and communicate with the principal's health care  
13 provider.

14 NEW SECTION. **Sec. 110.** (1) A power of attorney terminates when:

15 (a) The principal dies;

16 (b) The principal becomes incapacitated, if the power of attorney  
17 is not durable;

18 (c) The principal revokes the power of attorney;

19 (d) The power of attorney provides that it terminates;

20 (e) The purpose of the power of attorney is accomplished; or

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

25 (2) An agent's authority terminates when:

26 (a) The principal revokes the authority;

27 (b) The agent dies, becomes incapacitated, or resigns;

28 (c) An action is filed for the dissolution or annulment of the  
29 agent's marriage to the principal or for their legal separation, or  
30 an action is filed for dissolution or annulment of the agent's state  
31 registered domestic partnership with the principal or for their legal  
32 separation, unless the power of attorney otherwise provides; or

33 (d) The power of attorney terminates.

34 (3) An agent's authority which has been terminated under  
35 subsection (2)(c) of this section shall be reinstated effective  
36 immediately in the event that such action is dismissed with the  
37 consent of both parties or the petition for dissolution, annulment,  
38 or legal separation is withdrawn.

1 (4) Unless the power of attorney otherwise provides, an agent's  
2 authority is exercisable until the authority terminates under  
3 subsection (2) of this section, notwithstanding a lapse of time since  
4 the execution of the power of attorney.

5 (5) Termination of an agent's authority or of a power of attorney  
6 is not effective as to the agent or another person that, without  
7 actual knowledge of the termination, acts in good faith under the  
8 power of attorney. An act so performed, unless otherwise invalid or  
9 unenforceable, binds the principal and the principal's successors in  
10 interest.

11 (6) Incapacity of the principal of a power of attorney that is  
12 not durable does not revoke or terminate the power of attorney as to  
13 an agent or other person that, without actual knowledge of the  
14 incapacity, acts in good faith under the power of attorney. An act so  
15 performed, unless otherwise invalid or unenforceable, binds the  
16 principal and the principal's successors in interest.

17 (7) The execution of a power of attorney does not revoke a power  
18 of attorney previously executed by the principal unless the  
19 subsequent power of attorney provides that the previous power of  
20 attorney is revoked or that all other powers of attorney are revoked.

21 NEW SECTION. **Sec. 111.** (1) A principal may designate in a power  
22 of attorney two or more persons to act as coagents. Unless the power  
23 of attorney otherwise provides, all coagents must exercise their  
24 authority jointly; provided, however, a coagent may delegate that  
25 coagent's authority to another coagent.

26 (2) A principal may designate one or more successor agents to act  
27 if an agent resigns, dies, becomes incapacitated, is not qualified to  
28 serve, or declines to serve. A principal may grant authority to  
29 designate one or more successor agents to an agent or other person  
30 designated by name, office, or function. Unless the power of attorney  
31 otherwise provides, a successor agent:

32 (a) Has the same authority as that granted to the original agent;  
33 and

34 (b) May not act until all predecessor agents have resigned, died,  
35 become incapacitated, are no longer qualified to serve, or have  
36 declined to serve.

37 (3) Except as otherwise provided in the power of attorney and  
38 subsection (4) of this section, an agent that does not participate in  
39 or conceal a breach of fiduciary duty committed by another agent,

1 including a predecessor agent, is not liable for the actions of the  
2 other agent.

3 (4) An agent that has actual knowledge of a breach or imminent  
4 breach of fiduciary duty by another agent shall notify the principal  
5 and, if the principal is incapacitated, take any action reasonably  
6 appropriate in the circumstances to safeguard the principal's best  
7 interest. An agent that fails to notify the principal or take action  
8 as required by this subsection is liable for the reasonably  
9 foreseeable damages that could have been avoided if the agent had  
10 notified the principal or taken such action.

11 NEW SECTION. **Sec. 112.** Unless the power of attorney otherwise  
12 provides, an agent is entitled to reimbursement of expenses  
13 reasonably incurred on behalf of the principal and to reasonable  
14 compensation.

15 NEW SECTION. **Sec. 113.** Except as otherwise provided in the  
16 power of attorney, a person accepts appointment as an agent under a  
17 power of attorney by exercising authority or performing duties as an  
18 agent or by any other assertion or conduct indicating acceptance.

19 NEW SECTION. **Sec. 114.** (1) Notwithstanding provisions in the  
20 power of attorney, an agent that has accepted appointment shall:

21 (a) Act in accordance with the principal's reasonable  
22 expectations to the extent actually known by the agent and,  
23 otherwise, in the principal's best interest;

24 (b) Act in good faith; and

25 (c) Act only within the scope of authority granted in the power  
26 of attorney.

27 (2) Except as otherwise provided in the power of attorney, an  
28 agent that has accepted appointment shall:

29 (a) Act loyally for the principal's benefit;

30 (b) Act so as not to create a conflict of interest that impairs  
31 the agent's ability to act impartially in the principal's best  
32 interest;

33 (c) Act with the care, competence, and diligence ordinarily  
34 exercised by agents in similar circumstances;

35 (d) Keep a record of all receipts, disbursements, and  
36 transactions made on behalf of the principal;

1 (e) Cooperate with a person that has authority to make health  
2 care decisions for the principal to carry out the principal's  
3 reasonable expectations to the extent actually known by the agent  
4 and, otherwise, act in the principal's best interest; and

5 (f) Attempt to preserve the principal's estate plan, to the  
6 extent actually known by the agent, if preserving the plan is  
7 consistent with the principal's best interest based on all relevant  
8 factors, including:

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

10 (ii) The principal's foreseeable obligations and need for  
11 maintenance;

12 (iii) Minimization of taxes, including income, estate,  
13 inheritance, generation-skipping transfer, and gift taxes; and

14 (iv) Eligibility for a benefit, a program, or assistance under a  
15 statute or rule.

16 (3) An agent that acts in good faith is not liable to any  
17 beneficiary of the principal's estate plan for failure to preserve  
18 the plan.

19 (4) An agent that acts with care, competence, and diligence for  
20 the best interest of the principal is not liable solely because the  
21 agent also benefits from the act or has an individual or conflicting  
22 interest in relation to the property or affairs of the principal.

23 (5) If an agent is selected by the principal because of special  
24 skills or expertise possessed by the agent or in reliance on the  
25 agent's representation that the agent has special skills or  
26 expertise, the special skills or expertise must be considered in  
27 determining whether the agent has acted with care, competence, and  
28 diligence under the circumstances.

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

31 (7) An agent that engages another person on behalf of the  
32 principal is not liable for an act, error of judgment, or default of  
33 that person if the agent exercises care, competence, and diligence in  
34 selecting and monitoring the person, provided however that the agent  
35 shall not be relieved of liability for such person's discretionary  
36 acts, that, if done by the agent, would result in liability to the  
37 agent.

38 (8) Unless section 111(1) of this act applies, an agent may only  
39 delegate authority to another person if expressly authorized to do so  
40 in the power of attorney and may delegate some, but not all, of the

1 authority granted by the principal. An agent that exercises authority  
2 to delegate to another person the authority granted by the principal  
3 is not liable for an act, error of judgment, or default of that  
4 person if the agent exercises care, competence, and diligence in  
5 selecting and monitoring the person, provided however that the agent  
6 shall not be relieved of liability for such person's discretionary  
7 acts, that, if done by the agent, would result in liability to the  
8 agent.

9 (9) Except as otherwise provided in the power of attorney, an  
10 agent is not required to disclose receipts, disbursements, or  
11 transactions conducted on behalf of the principal unless ordered by a  
12 court or requested in writing by the principal, a guardian, a  
13 conservator, another fiduciary acting for the principal, a  
14 governmental agency having authority to protect the welfare of the  
15 principal, or, upon the death of the principal, by the personal  
16 representative or successor in interest of the principal's estate.  
17 Such request by a guardian, conservator, or another fiduciary acting  
18 for the principal must be limited to information reasonably related  
19 to that guardian, conservator, or fiduciary's duties. If so  
20 requested, within thirty days the agent shall comply with the request  
21 or provide a writing or other record substantiating why additional  
22 time is needed and shall comply with the request within an additional  
23 thirty days.

24 NEW SECTION. **Sec. 115.** A provision in a power of attorney  
25 relieving an agent of liability for breach of duty is binding on the  
26 principal and the principal's successors in interest except to the  
27 extent the provision:

28 (1) Relieves the agent of liability for breach of duty committed  
29 dishonestly, with an improper motive, or with gross negligence to the  
30 purposes of the power of attorney or the best interest of the  
31 principal; or

32 (2) Was inserted as a result of an abuse of a confidential or  
33 fiduciary relationship with the principal.

34 NEW SECTION. **Sec. 116.** (1) Except as otherwise provided in the  
35 power of attorney, the following persons may bring a petition  
36 described in subsection (2) of this section:

37 (a) The principal or the agent;

1 (b) The spouse or state registered domestic partner of the  
2 principal;

3 (c) The guardian of the estate or person of the principal;

4 (d) Any other interested person, as long as the person  
5 demonstrates to the court's satisfaction that the person is  
6 interested in the welfare of the principal and has a good faith  
7 belief that the court's intervention is necessary, and that the  
8 principal is incapacitated at the time of filing the petition or  
9 otherwise unable to protect his or her own interests; and

10 (e) A person asked to accept the power of attorney.

11 (2) A person designated in subsection (1) of this section may  
12 file a petition requesting the court to construe a power of attorney  
13 or grant any other appropriate relief, including but not limited to:

14 (a) Determination of whether the power of attorney is in effect  
15 or has terminated;

16 (b) Compelling the agent to submit the agent's accounts or report  
17 the agent's acts as agent to the principal, the spouse or state  
18 registered domestic partner of the principal, the guardian of the  
19 person or the estate of the principal, or to any other person  
20 required by the court in its discretion, if the agent has not timely  
21 complied with a request under section 114(9) of this act. However, a  
22 government agency having authority to protect the welfare of the  
23 principal may file a petition upon the agent's refusal or failure to  
24 submit an accounting upon written request and shall not be required  
25 to wait sixty days;

26 (c) Ratification of past acts or approval of proposed acts of the  
27 agent;

28 (d) Issuance of an order directing the agent to exercise or  
29 refrain from exercising authority in a power of attorney in a  
30 particular manner or for a particular purpose;

31 (e) Modification of the authority of an agent under a power of  
32 attorney;

33 (f) Removal of the agent on a determination by the court of both  
34 of the following:

35 (i) Determination that the agent has violated or is unfit to  
36 perform the fiduciary duties under the power of attorney; and

37 (ii) Determination that the removal of the agent is in the best  
38 interest of the principal;

39 (g) Approval of the resignation of the agent and approval of the  
40 final accountings of the resigning agent if submitted, subject to any

1 orders the court determines are necessary to protect the principal's  
2 interests;

3 (h) Confirmation of the authority of a successor agent to act  
4 under a power of attorney upon removal or resignation of the previous  
5 agent;

6 (i) Compelling a third person to honor the authority of an agent,  
7 provided that a third person may not be compelled to honor the  
8 agent's authority if the principal could not compel the third person  
9 to act in the same circumstances;

10 (j) Order the agent to furnish a bond in an amount the court  
11 determines to be appropriate.

12 (3) Any action commenced under this section shall be subject to  
13 the notice requirements of chapter 11.96A RCW.

14 (4) Upon motion by the principal, the court shall dismiss a  
15 petition filed under this section, unless the court finds that the  
16 principal lacks capacity to revoke the agent's authority or the power  
17 of attorney.

18 (5) Except as otherwise provided in section 120(3)(b) of this  
19 act, any action commenced under this section shall be subject to the  
20 provisions of RCW 11.96A.150.

21 NEW SECTION. **Sec. 117.** An agent that violates this chapter is  
22 liable to the principal or the principal's successors in interest for  
23 the amount required to restore the value of the principal's property  
24 to what it would have been had the violation not occurred.

25 NEW SECTION. **Sec. 118.** Unless the power of attorney has been  
26 terminated in accordance with section 108 of this act, or the power  
27 of attorney provides a different method for an agent's resignation,  
28 an agent may resign by giving notice to the principal and, if the  
29 principal is incapacitated:

30 (1) To the conservator or guardian, if one has been appointed for  
31 the principal, and a coagent or successor agent, if designated; or

32 (2) If there is no person described in subsection (1) of this  
33 section:

34 (a) To any person reasonably believed by the agent to have  
35 sufficient interest in the principal's welfare;

36 (b) To a governmental agency having authority to protect the  
37 welfare of the principal; or

1 (c) By filing notice with the county recorder's office in the  
2 county where the principal resides.

3 NEW SECTION. **Sec. 119.** (1) For purposes of this section and  
4 section 120 of this act, "acknowledged" means purportedly verified  
5 before a notary public or other individual authorized to take  
6 acknowledgments.

7 (2) A person that in good faith accepts an acknowledged power of  
8 attorney without actual knowledge that the signature is not genuine  
9 may rely upon the presumption under section 105 of this act that the  
10 signature is genuine.

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

19 (4) A person that is asked to accept an acknowledged power of  
20 attorney may request, and rely upon, without further investigation:

21 (a) An agent's certification given under penalty of perjury  
22 meeting the requirements of subsection (5) of this section; and

23 (b) An English translation of the power of attorney if the power  
24 of attorney contains, in whole or in part, language other than  
25 English.

26 (5) A certification presented pursuant to subsection (4) of this  
27 section or pursuant to section 120 of this act shall state that:

28 (a) The person presenting himself or herself as the agent and  
29 signing the affidavit or declaration is the person so named in the  
30 power of attorney;

31 (b) If the agent is named in the power of attorney as a successor  
32 agent, the circumstances or conditions stated in the power of  
33 attorney that would cause that person to become the acting agent have  
34 occurred;

35 (c) To the best of the agent's knowledge, the principal is still  
36 alive;

37 (d) To the best of the agent's knowledge, at the time the power  
38 of attorney was signed, the principal was competent to execute the  
39 document and was not under undue influence to sign the document;

1 (e) All events necessary to making the power of attorney  
2 effective have occurred;

3 (f) The agent does not have actual knowledge of the revocation,  
4 termination, limitation, or modification of the power of attorney or  
5 of the agent's authority;

6 (g) The agent does not have actual knowledge of the existence of  
7 other circumstances that would limit, modify, revoke, or terminate  
8 the power of attorney or the agent's authority to take the proposed  
9 action;

10 (h) If the agent was married to or in a state registered domestic  
11 partnership with the principal at the time of execution of the power  
12 of attorney, then at the time of signing the affidavit or  
13 declaration, the marriage or state registered domestic partnership of  
14 the principal and the agent has not been dissolved or declared  
15 invalid; and

16 (i) The agent is acting in good faith pursuant to the authority  
17 given under the power of attorney.

18 (6) An English translation requested under this section must be  
19 provided at the principal's expense unless the request is made more  
20 than seven business days after the power of attorney is presented for  
21 acceptance.

22 (7) For purposes of this section and section 120 of this act, a  
23 person that conducts activities through employees is without actual  
24 knowledge of a fact relating to a power of attorney, a principal, or  
25 an agent if the employee conducting the transaction involving the  
26 power of attorney is without actual knowledge of the fact.

27 NEW SECTION. **Sec. 120.** (1) Except as otherwise provided in  
28 subsection (2) of this section:

29 (a) A person shall either accept an acknowledged power of  
30 attorney or request a certification or a translation no later than  
31 seven business days after presentation of the power of attorney for  
32 acceptance;

33 (b) If a person requests a certification or a translation, the  
34 person shall accept the power of attorney no later than five business  
35 days after receipt of the certification or translation; and

36 (c) A person may not require an additional or different form of  
37 power of attorney for authority granted in the power of attorney  
38 presented.

1 (2) A person is not required to accept an acknowledged power of  
2 attorney if:

3 (a) The person is not otherwise required to engage in a  
4 transaction with the principal in the same circumstances;

5 (b) Engaging in a transaction with the agent or the principal in  
6 the same circumstances would be inconsistent with federal law;

7 (c) The person has actual knowledge of the termination of the  
8 agent's authority or of the power of attorney before exercise of the  
9 power;

10 (d) A request for a certification or a translation is refused;

11 (e) The person in good faith believes that the power is not valid  
12 or that the agent does not have the authority to perform the act  
13 requested, whether or not a certification or a translation has been  
14 requested or provided; or

15 (f) The person makes, or has actual knowledge that another person  
16 has made, a report to the department of social and health services  
17 stating a good faith belief that the principal may be subject to  
18 physical or financial abuse, neglect, exploitation, or abandonment by  
19 the agent or a person acting for or with the agent.

20 (3) A person that refuses in violation of this section to accept  
21 an acknowledged power of attorney is subject to:

22 (a) A court order mandating acceptance of the power of attorney;  
23 and

24 (b) Liability for reasonable attorneys' fees and costs incurred  
25 in any action or proceeding that confirms the validity of the power  
26 of attorney or mandates acceptance of the power of attorney.

27 NEW SECTION. **Sec. 121.** Unless displaced by a provision of this  
28 chapter, the principles of law and equity supplement this chapter.

29 NEW SECTION. **Sec. 122.** This chapter does not supersede any  
30 other law applicable to financial institutions or other entities, and  
31 the other law controls if inconsistent with this chapter.

32 NEW SECTION. **Sec. 123.** The remedies under this chapter are not  
33 exclusive and do not abrogate any right or remedy under the law of  
34 this state other than this chapter.

35 **PART II**

1        NEW SECTION.    **Sec. 201.**    (1) An agent under a power of attorney  
2 may, subject to the requirements of section 114 of this act, and in  
3 particular section 114(2)(f) of this act, do the following on behalf  
4 of the principal or with the principal's property only if the power  
5 of attorney expressly grants the agent the authority and exercise of  
6 the authority is not otherwise prohibited by another agreement or  
7 instrument to which the authority or property is subject:

8            (a) Create, amend, revoke, or terminate an inter vivos trust;

9            (b) Make a gift;

10           (c) Create or change rights of survivorship;

11           (d) Create or change a beneficiary designation;

12           (e) Delegate some but not all of the authority granted under the  
13 power of attorney, except as otherwise provided in section 111(1) of  
14 this act;

15           (f) Waive the principal's right to be a beneficiary of a joint  
16 and survivor annuity, including a survivor benefit under a retirement  
17 plan;

18           (g) Exercise fiduciary powers that the principal has authority to  
19 delegate;

20           (h) Exercise any power of appointment in favor of anyone other  
21 than the principal;

22           (i) Create, amend, or revoke a community property agreement;

23           (j) Cause a trustee to make distributions of property held in  
24 trust under the same conditions that the principal could;

25           (k) Make any other provisions for nonprobate transfer at death  
26 contained in nontestamentary instruments described in RCW 11.02.091.

27        (2) Notwithstanding the provisions of subsection (1)(a) of this  
28 section, an agent may, even in the absence of a specific grant of  
29 authority, make transfers of property to any trust that benefits the  
30 principal alone and does not have dispositive provisions that are  
31 different from those that would have governed the property had it not  
32 been transferred into such trust.

33        (3) Notwithstanding the provisions of subsection (1)(b) of this  
34 section, an agent may, even in the absence of a specific grant of  
35 authority, make any transfer of resources not prohibited under  
36 chapter 74.09 RCW when the transfer is for the purpose of qualifying  
37 the principal for medical assistance or the limited casualty program  
38 for the medically needy.

39        (4) Notwithstanding a grant of authority to do an act described  
40 in subsection (1) of this section, unless the power of attorney

1 otherwise provides, an agent that is not an ancestor, spouse, state  
2 registered domestic partner, or descendant of the principal, may not  
3 exercise authority under a power of attorney to create in the agent,  
4 or in an individual to whom the agent owes a legal obligation of  
5 support, an interest in the principal's property, whether by gift,  
6 right of survivorship, beneficiary designation, disclaimer, or  
7 otherwise.

8 (5) Unless the power of attorney otherwise provides, a grant of  
9 authority to make a gift is subject to section 216 of this act.

10 (6) Subject to subsections (1) through (5) of this section, if  
11 the subjects over which authority is granted in a power of attorney  
12 are similar or overlap, the broadest authority controls.

13 (7) Authority granted in a power of attorney is exercisable with  
14 respect to property that the principal has when the power of attorney  
15 is executed or acquires later, whether or not the property is located  
16 in this state and whether or not the authority is exercised or the  
17 power of attorney is executed in this state.

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

22 NEW SECTION. **Sec. 202.** (1) Subject to the provisions of section  
23 201 of this act, if a power of attorney grants to an agent authority  
24 to do all acts that a principal could do or contains words of similar  
25 effect, the agent has the general authority described in sections 203  
26 through 218 of this act.

27 (2) An agent has authority described in this act if the power of  
28 attorney refers to general authority with respect to the descriptive  
29 term for the subjects stated in sections 204 through 218 of this act  
30 or cites the section in which the authority is described.

31 (3) A reference in a power of attorney to general authority with  
32 respect to the descriptive term for a subject in sections 204 through  
33 218 of this act or a citation to a section of sections 204 through  
34 218 of this act incorporates the entire section as if it were set out  
35 in full in the power of attorney.

36 (4) A principal may modify authority incorporated by reference.

37 NEW SECTION. **Sec. 203.** Except as otherwise provided in the  
38 power of attorney, by executing a power of attorney that incorporates

1 by reference a subject described in sections 204 through 218 of this  
2 act or that grants to an agent authority to do all acts that a  
3 principal could do pursuant to section 202(1) of this act, a  
4 principal authorizes the agent, with respect to that subject, to:

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

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

14 (3) Execute, acknowledge, seal, deliver, file, or record any  
15 instrument or communication the agent considers desirable to  
16 accomplish a purpose of a transaction, including creating at any time  
17 a schedule listing some or all of the principal's property and  
18 attaching it to the power of attorney;

19 (4) Initiate, participate in, submit to alternative dispute  
20 resolution, settle, oppose, or propose or accept a compromise with  
21 respect to a claim existing in favor of or against the principal or  
22 intervene in litigation relating to the claim;

23 (5) Seek on the principal's behalf the assistance of a court or  
24 other governmental agency to carry out an act authorized in the power  
25 of attorney;

26 (6) Engage, compensate, and discharge an attorney, accountant,  
27 investment manager, expert witness, or other advisor;

28 (7) Prepare, execute, and file a record, report, or other  
29 document to safeguard or promote the principal's interest under a  
30 statute or regulation;

31 (8) Communicate with any representative or employee of a  
32 government or governmental subdivision, agency, or instrumentality,  
33 on behalf of the principal;

34 (9) Access communications intended for, and communicate on behalf  
35 of the principal, whether by mail, electronic transmission,  
36 telephone, or other means; and

37 (10) Do any lawful act with respect to the subject and all  
38 property related to the subject.

1        NEW SECTION.    **Sec. 204.**    Unless the power of attorney otherwise  
2 provides, language in a power of attorney granting general authority  
3 with respect to real property authorizes the agent to:

4        (1) Demand; buy; sublease; license; receive; accept as a gift or  
5 as security for an extension of credit; or otherwise acquire or  
6 reject an interest in real property or a right incident to real  
7 property;

8        (2) Sell; exchange; convey with or without reservations,  
9 covenants, representations, or warranties; quitclaim; release;  
10 surrender; retain title for security; encumber; partition; consent to  
11 partitioning; subject to an easement or covenant, common interest  
12 regime; subdivide; apply for zoning or other governmental permits;  
13 plat or consent to platting; develop; grant an option concerning;  
14 lease; sublease; license; contribute to an entity in exchange for an  
15 interest in that entity; or, subject to section 201 of this act,  
16 otherwise grant or dispose of an interest in real property or a right  
17 incident to real property;

18        (3) Pledge or mortgage an interest in real property or right  
19 incident to real property as security to borrow money or pay, renew,  
20 extend the time of payment of a debt of the principal or a debt  
21 guaranteed by the principal, or as security for a nonmonetary  
22 obligation;

23        (4) Release, assign, satisfy, or enforce by litigation or  
24 otherwise a mortgage, deed of trust, conditional sale contract,  
25 encumbrance, lien, or other claim to real property which exists or is  
26 asserted;

27        (5) Manage or conserve an interest in real property or a right  
28 incident to real property owned or claimed to be owned by the  
29 principal, including:

30        (a) Insuring against liability or casualty or other loss;

31        (b) Obtaining or regaining possession of or protecting the  
32 interest or right by litigation or otherwise;

33        (c) Paying, assessing, compromising, or contesting taxes or  
34 assessments or applying for and receiving refunds in connection with  
35 them; and

36        (d) Purchasing supplies, hiring assistance or labor, and making  
37 repairs or alterations to the real property;

38        (6) Use, develop, alter, replace, remove, erect, or install  
39 structures or other improvements upon real property in or incident to  
40 which the principal has, or claims to have, an interest or right;

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

6 (a) Selling or otherwise disposing of them;

7 (b) Exercising or selling an option, right of conversion, or  
8 similar right with respect to them; and

9 (c) Exercising any voting rights in person or by proxy;

10 (8) Change the form of title of an interest in or right incident  
11 to real property; and

12 (9) Dedicate to public use, with or without consideration,  
13 easements or other real property in which the principal has, or  
14 claims to have, an interest.

15 NEW SECTION. **Sec. 205.** Unless the power of attorney otherwise  
16 provides, language in a power of attorney granting general authority  
17 with respect to tangible personal property authorizes the agent to:

18 (1) Demand, buy, receive, accept as a gift or as security for an  
19 extension of credit, or otherwise acquire or reject ownership or  
20 possession of tangible personal property or an interest in tangible  
21 personal property;

22 (2) Sell; exchange; convey with or without covenants,  
23 representations, or warranties; quitclaim; release; surrender; create  
24 a security interest in; grant options concerning; lease; sublease;  
25 or, otherwise dispose of tangible personal property or an interest in  
26 tangible personal property;

27 (3) Grant a security interest in tangible personal property or an  
28 interest in tangible personal property as security to borrow money or  
29 pay, renew, or extend the time of payment of a debt of the principal  
30 or a debt guaranteed by the principal;

31 (4) Release, assign, satisfy, or enforce by litigation or  
32 otherwise, a security interest, lien, or other claim on behalf of the  
33 principal, with respect to tangible personal property or an interest  
34 in tangible personal property;

35 (5) Manage or conserve tangible personal property or an interest  
36 in tangible personal property on behalf of the principal, including:

37 (a) Insuring against liability or casualty or other loss;

38 (b) Obtaining or regaining possession of or protecting the  
39 property or interest, by litigation or otherwise;

1 (c) Paying, assessing, compromising, or contesting taxes or  
2 assessments or applying for and receiving refunds in connection with  
3 taxes or assessments;

4 (d) Moving the property from place to place;

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

7 (f) Using and making repairs, alterations, or improvements to the  
8 property; and

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

11 NEW SECTION. **Sec. 206.** Unless the power of attorney otherwise  
12 provides, language in a power of attorney granting general authority  
13 with respect to stocks, bonds, and financial instruments authorizes  
14 the agent to:

15 (1) Buy, sell, and exchange stocks, bonds, and financial  
16 instruments;

17 (2) Establish, continue, modify, or terminate an account with  
18 respect to stocks, bonds, and financial instruments;

19 (3) Pledge stocks, bonds, and financial instruments as security  
20 to borrow, pay, renew, or extend the time of payment of a debt of the  
21 principal;

22 (4) Receive certificates and other evidences of ownership with  
23 respect to stocks, bonds, and financial instruments;

24 (5) Exercise voting rights with respect to stocks, bonds, and  
25 financial instruments in person or by proxy, enter into voting  
26 trusts, and consent to limitations on the right to vote;

27 (6) Buy, sell, exchange, assign, settle, and exercise commodity  
28 futures contracts and call or put options on stocks or stock indexes  
29 traded on a regulated option exchange; and

30 (7) Establish, continue, modify, and terminate option accounts.

31 NEW SECTION. **Sec. 207.** Except as otherwise expressly provided  
32 in this act and in chapter 30A.22 RCW, unless the power of attorney  
33 otherwise provides, language in a power of attorney granting general  
34 authority with respect to banks and other financial institutions  
35 authorizes the agent to:

36 (1) Continue, modify, and terminate an account or other banking  
37 arrangement made by or on behalf of the principal;

1 (2) Establish, modify, and terminate an account or other banking  
2 arrangement with a bank, trust company, savings and loan association,  
3 credit union, thrift company, brokerage firm, or other financial  
4 institution selected by the agent;

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

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

10 (5) Receive statements of account, vouchers, notices, and similar  
11 documents from a financial institution and act with respect to them;

12 (6) Enter a safe deposit box or vault and withdraw or add to the  
13 contents;

14 (7) Borrow money and pledge as security personal property of the  
15 principal necessary to borrow money or pay, renew, or extend the time  
16 of payment of a debt of the principal or a debt guaranteed by the  
17 principal;

18 (8) Make, assign, draw, endorse, discount, guarantee, and  
19 negotiate promissory notes, checks, drafts, and other negotiable or  
20 nonnegotiable paper of the principal or payable to the principal or  
21 the principal's order, transfer money, receive the cash or other  
22 proceeds of those transactions, and accept a draft drawn by a person  
23 upon the principal and pay it when due;

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

27 (10) Apply for, receive, and use letters of credit, credit and  
28 debit cards, electronic transaction authorizations, and traveler's  
29 checks from a financial institution and give an indemnity or other  
30 agreement in connection with letters of credit; and

31 (11) Consent to an extension of the time of payment with respect  
32 to commercial paper or a financial transaction with a financial  
33 institution.

34 NEW SECTION. **Sec. 208.** Subject to the terms of a document or an  
35 agreement governing an entity or an entity ownership interest, and  
36 unless the power of attorney otherwise provides, language in a power  
37 of attorney granting general authority with respect to operation of  
38 an entity or business authorizes the agent to:

- 1 (1) Operate, buy, sell, enlarge, reduce, or terminate an  
2 ownership interest;
- 3 (2) Perform a duty or discharge a liability and exercise in  
4 person or by proxy a right, power, privilege, or option that the  
5 principal has, may have, or claims to have;
- 6 (3) Enforce the terms of an ownership agreement;
- 7 (4) Initiate, participate in, submit to alternative dispute  
8 resolution, settle, oppose, or propose or accept a compromise with  
9 respect to litigation to which the principal is a party because of an  
10 ownership interest;
- 11 (5) Exercise in person or by proxy, or enforce by litigation or  
12 otherwise, a right, power, privilege, or option the principal has or  
13 claims to have as the holder of stocks, bonds, and financial  
14 instruments;
- 15 (6) Initiate, participate in, submit to alternative dispute  
16 resolution, settle, oppose, or propose or accept a compromise with  
17 respect to litigation to which the principal is a party concerning  
18 stocks, bonds, and financial instruments;
- 19 (7) With respect to an entity or business owned solely by the  
20 principal:
- 21 (a) Continue, modify, renegotiate, extend, and terminate a  
22 contract made by or on behalf of the principal with respect to the  
23 entity or business before execution of the power of attorney;
- 24 (b) Determine:
- 25 (i) The location of its operation;
- 26 (ii) The nature and extent of its business;
- 27 (iii) The methods of manufacturing, selling, merchandising,  
28 financing, accounting, and advertising employed in its operation;
- 29 (iv) The amount and types of insurance carried; and
- 30 (v) The mode of engaging, compensating, and dealing with its  
31 employees and accountants, attorneys, or other advisors;
- 32 (c) Change the name or form of organization under which the  
33 entity or business is operated and enter into an ownership agreement  
34 with other persons to take over all or part of the operation of the  
35 entity or business; and
- 36 (d) Demand and receive money due or claimed by the principal or  
37 on the principal's behalf in the operation of the entity or business  
38 and control and disburse the money in the operation of the entity or  
39 business;

1 (8) Put additional capital into an entity or business in which  
2 the principal has an interest;

3 (9) Join in a plan of reorganization, consolidation, conversion,  
4 domestication, or merger of the entity or business;

5 (10) Sell or liquidate all or part of an entity or business;

6 (11) Establish through agreement or independent appraisal the  
7 value of an entity or business to which the principal is a party;

8 (12) Prepare, sign, file, and deliver reports, compilations of  
9 information, returns, or other papers with respect to an entity or  
10 business and make related payments; and

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

17 NEW SECTION. **Sec. 209.** Unless the power of attorney otherwise  
18 provides, language in a power of attorney granting general authority  
19 with respect to insurance and annuities authorizes the agent to:

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

25 (2) Procure new, different, and additional contracts of insurance  
26 and annuities for the benefit of the principal and the principal's  
27 spouse, state registered domestic partner, children, and other  
28 dependents, and select the amount, type of insurance or annuity, and  
29 mode of payment;

30 (3) Pay the premium or make a contribution on, modify, exchange,  
31 rescind, release, or terminate a contract of insurance or annuity  
32 procured by the agent;

33 (4) Apply for and receive a loan secured by a contract of  
34 insurance or annuity;

35 (5) Surrender and receive the cash surrender value on a contract  
36 of insurance or annuity;

37 (6) Exercise an election;

38 (7) Exercise investment powers available under a contract of  
39 insurance or annuity;

1 (8) Change the manner of paying premiums on a contract of  
2 insurance or annuity;

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

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

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

12 (12) Select the form and timing of the payment of proceeds from a  
13 contract of insurance or annuity; and

14 (13) Pay, from proceeds or otherwise, compromise or contest, and  
15 apply for refunds in connection with, a tax or assessment levied by a  
16 taxing authority with respect to a contract of insurance or annuity  
17 or its proceeds or liability accruing by reason of the tax or  
18 assessment.

19 NEW SECTION. **Sec. 210.** (1) In this section, "estates, trusts,  
20 and other beneficial interests" means a trust, probate estate,  
21 guardianship, conservatorship, escrow, or custodianship or a fund  
22 from which the principal is, may become, or claims to be, entitled to  
23 a share or payment.

24 (2) Unless the power of attorney otherwise provides, language in  
25 a power of attorney granting general authority with respect to  
26 estates, trusts, and other beneficial interests authorizes the agent  
27 to:

28 (a) Accept, receive, receipt for, sell, assign, pledge, or  
29 exchange a share in or payment from the fund;

30 (b) Demand or obtain money or another thing of value to which the  
31 principal is, may become, or claims to be, entitled by reason of the  
32 fund, by litigation or otherwise;

33 (c) Exercise for the benefit of the principal a presently  
34 exercisable general power of appointment held by the principal;

35 (d) Exercise for the benefit of the principal a presently  
36 exercisable limited power of appointment held by the principal;

37 (e) Initiate, participate in, submit to alternative dispute  
38 resolution, settle, oppose, or propose or accept a compromise with  
39 respect to litigation to ascertain the meaning, validity, or effect

1 of a deed, will, declaration of trust, or other instrument or  
2 transaction affecting the interest of the principal;

3 (f) Initiate, participate in, submit to alternative dispute  
4 resolution, settle, oppose, or propose or accept a compromise with  
5 respect to litigation to remove, substitute, or surcharge a  
6 fiduciary, and any other matter as defined under RCW 11.96A.030;

7 (g) Conserve, invest, disburse, or use anything received for an  
8 authorized purpose;

9 (h) Transfer an interest of the principal in real property,  
10 stocks, bonds, and financial instruments, accounts with financial  
11 institutions or securities intermediaries, insurance, annuities, and  
12 other property to the trustee of a revocable trust created by the  
13 principal as settlor, subject to the limitations in section 201(1) of  
14 this section; and

15 (i) Reject, renounce, disclaim, release, or consent to a  
16 reduction in or modification of a share in or payment from the fund.

17 NEW SECTION. **Sec. 211.** Unless the power of attorney otherwise  
18 provides, language in a power of attorney granting general authority  
19 with respect to claims and litigation authorizes the agent, without  
20 the need for appointment of a guardian or guardian ad litem under  
21 Title 4 RCW, to:

22 (1) Assert and maintain before a court or administrative agency a  
23 claim, claim for relief, cause of action, counterclaim, offset,  
24 recoupment, or defense, including an action to recover property or  
25 other thing of value, recover damages sustained by the principal,  
26 eliminate or modify tax liability, or seek an injunction, specific  
27 performance, or other relief;

28 (2) Bring or defend an action to determine adverse claims or  
29 intervene or otherwise participate in litigation;

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

33 (4) Make or accept a tender, offer of judgment, or admission of  
34 facts, submit a controversy on an agreed statement of facts, consent  
35 to examination, and bind the principal in litigation;

36 (5) Submit to alternative dispute resolution, settle, and propose  
37 or accept a compromise, subject to special proceeding rule 98.16W;

38 (6) Waive the issuance and service of process upon the principal,  
39 accept service of process, appear for the principal, designate

1 persons upon which process directed to the principal may be served,  
2 execute, and file or deliver stipulations on the principal's behalf,  
3 verify pleadings, seek appellate review, procure and give surety and  
4 indemnity bonds, contract and pay for the preparation and printing of  
5 records and briefs, receive, execute, and file or deliver a consent,  
6 waiver, release, confession of judgment, satisfaction of judgment,  
7 notice, agreement, or other instrument in connection with the  
8 prosecution, settlement, or defense of a claim or litigation;

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

15 (8) Pay a judgment, award, or order against the principal or a  
16 settlement made in connection with a claim or litigation; and

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

19 NEW SECTION. **Sec. 212.** (1) Unless the power of attorney  
20 otherwise provides, language in a power of attorney granting general  
21 authority with respect to personal and family maintenance authorizes  
22 the agent to:

23 (a) Perform the acts necessary to maintain the customary standard  
24 of living of the principal, the principal's spouse or state  
25 registered domestic partner, and the following individuals, whether  
26 living when the power of attorney is executed or later born:

27 (i) The principal's children;

28 (ii) Other individuals legally entitled to be supported by the  
29 principal; and

30 (iii) The individuals whom the principal has customarily  
31 supported or indicated the intent to support;

32 (b) Make periodic payments of child support and other family  
33 maintenance required by a court or governmental agency or an  
34 agreement to which the principal is a party;

35 (c) Provide living quarters for the individuals described in  
36 subsection (1) of this section by:

37 (i) Purchase, lease, or other contract; or

1 (ii) Paying the operating costs, including interest, amortization  
2 payments, repairs, improvements, and taxes, for premises owned by the  
3 principal or occupied by those individuals;

4 (d) Provide reasonable domestic help, usual vacations and travel  
5 expenses, and funds for shelter, clothing, food, appropriate  
6 education, including postsecondary and vocational education, and  
7 other current living costs for the individuals described in  
8 subsection (1) of this section;

9 (e) Pay expenses for necessary health care and custodial care on  
10 behalf of the individuals described in subsection (1) of this  
11 section;

12 (f) Act as the principal's personal representative pursuant to  
13 the health insurance portability and accountability act, sections  
14 1171 through 1179 of the social security act, 42 U.S.C. Sec. 1320d,  
15 as amended, and applicable regulations, for the limited purpose of  
16 making decisions regarding the payment of costs and expenses arising  
17 from past, present, or future health care provided to the principal  
18 which was consented to by the principal or anyone authorized under  
19 the law of this state to consent to health care on behalf of the  
20 principal;

21 (g) Continue any provision made by the principal for automobiles  
22 or other means of transportation, including registering, licensing,  
23 insuring, and replacing them, for the individuals described in  
24 subsection (1) of this section;

25 (h) Maintain credit and debit accounts for the convenience of the  
26 individuals described in subsection (1) of this section and open new  
27 accounts; and

28 (i) Continue payments incidental to the membership or affiliation  
29 of the principal in a religious institution, club, society, order, or  
30 other organization or to continue contributions to those  
31 organizations.

32 (2) Authority with respect to personal and family maintenance is  
33 neither dependent upon, nor limited by, authority that an agent may  
34 or may not have with respect to gifts under this act.

35 NEW SECTION. **Sec. 213.** (1) In this section, "benefits from  
36 governmental programs or civil or military service" means any  
37 benefit, program or assistance provided under a statute or regulation  
38 including social security, medicare, and medicaid.

1 (2) Unless the power of attorney otherwise provides, language in  
2 a power of attorney granting general authority with respect to  
3 benefits from governmental programs or civil or military service  
4 authorizes the agent to:

5 (a) Execute vouchers in the name of the principal for allowances  
6 and reimbursements payable by the United States or a foreign  
7 government or by a state or subdivision of a state to the principal,  
8 including allowances and reimbursements for transportation of the  
9 individuals described in section 212(1)(a) of this act, and for  
10 shipment of their household effects;

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

17 (c) Enroll in, apply for, select, reject, change, amend, or  
18 discontinue, on the principal's behalf, a benefit or program;

19 (d) Prepare, file, and maintain a claim of the principal for a  
20 benefit or assistance, financial or otherwise, to which the principal  
21 may be entitled under a statute or regulation;

22 (e) Initiate, participate in, submit to alternative dispute  
23 resolution, settle, oppose, or propose or accept a compromise with  
24 respect to litigation concerning any benefit or assistance the  
25 principal may be entitled to receive under a statute or regulation;  
26 and

27 (f) Receive the financial proceeds of a claim described in (d) of  
28 this subsection and conserve, invest, disburse, or use for a lawful  
29 purpose anything so received.

30 NEW SECTION. **Sec. 214.** (1) In this section, "retirement plan"  
31 means a plan or account created by an employer, the principal, or  
32 another individual to provide retirement benefits or deferred  
33 compensation of which the principal is a participant, beneficiary, or  
34 owner, including but not limited to a plan or account under the  
35 following sections of the internal revenue code:

36 (a) An individual retirement account under internal revenue code  
37 section 408, 26 U.S.C. Sec. 408, as amended;

38 (b) A roth individual retirement account under internal revenue  
39 code section 408A, 26 U.S.C. Sec. 408A, as amended;

1 (c) A deemed individual retirement account under internal revenue  
2 code section 408(q), 26 U.S.C. Sec. 408(q), as amended;

3 (d) An annuity or mutual fund custodial account under internal  
4 revenue code section 403(b), 26 U.S.C. Sec. 403(b), as amended;

5 (e) A pension, profit-sharing, stock bonus, or other retirement  
6 plan qualified under internal revenue code section 401(a), 26 U.S.C.  
7 Sec. 401(a), as amended;

8 (f) A plan under internal revenue code section 457(b), 26 U.S.C.  
9 Sec. 457(b), as amended; and

10 (g) A nonqualified deferred compensation plan under internal  
11 revenue code section 409A, 26 U.S.C. Sec. 409A, as amended.

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

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

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

19 (c) Establish a retirement plan in the principal's name;

20 (d) Make contributions to a retirement plan;

21 (e) Exercise investment powers available under a retirement plan;  
22 and

23 (f) Borrow from, sell assets to, or purchase assets from a  
24 retirement plan.

25 NEW SECTION. **Sec. 215.** Unless the power of attorney otherwise  
26 provides, language in a power of attorney granting general authority  
27 with respect to taxes authorizes the agent to:

28 (1) Prepare, sign, and file federal, state, local, and foreign  
29 income, gift, payroll, property, federal insurance contributions act,  
30 and other tax returns, claims for refunds, requests for extension of  
31 time, petitions regarding tax matters, and any other tax-related  
32 documents, including receipts, offers, waivers, consents, including  
33 consents and agreements under internal revenue code section 2032A, 26  
34 U.S.C. Sec. 2032A, as amended, closing agreements, and any power of  
35 attorney required by the internal revenue service or other taxing  
36 authority including, but not limited to, an internal revenue service  
37 form 2848 in favor of any third party with respect to a tax year upon  
38 which the statute of limitations has not run and the following  
39 twenty-five tax years;

1 (2) Pay taxes due, collect refunds, post bonds, receive  
2 confidential information, and contest deficiencies determined by the  
3 internal revenue service or other taxing authority;

4 (3) Exercise any election available to the principal under  
5 federal, state, local, or foreign tax law; and

6 (4) Act for the principal in all tax matters for all periods  
7 before the internal revenue service, or other taxing authority.

8 NEW SECTION. **Sec. 216.** (1) In this section, a gift "for the  
9 benefit of" a person includes but is not limited to a gift to a  
10 trust, an account under the uniform transfers to minors act of any  
11 jurisdiction, and a tuition savings account or prepaid tuition plan  
12 as defined under internal revenue code section 529, 26 U.S.C. Sec.  
13 529, as amended. Notwithstanding the terms of section 201(1)(a) of  
14 this act, the power to make a gift pursuant to section 201(1)(b) of  
15 this act shall include the power to create a trust, an account under  
16 the uniform transfers to minors act, or a tuition savings account or  
17 prepaid tuition plan as defined under internal revenue code section  
18 529, 26 U.S.C. Sec. 529, as amended, into which a gift is to be made.

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

22 (a) Make outright to, or for the benefit of, a person, a gift of  
23 any of the principal's property, including by the exercise of a  
24 presently exercisable general power of appointment held by the  
25 principal, in an amount per donee not to exceed the annual dollar  
26 limits of the federal gift tax exclusion under internal revenue code  
27 section 2503(b), 26 U.S.C. Sec. 2503(b), as amended, without regard  
28 to whether the federal gift tax exclusion applies to the gift, or if  
29 the principal's spouse agrees to consent to a split gift pursuant to  
30 internal revenue code section 2513, 26 U.S.C. Sec. 2513, as amended,  
31 in an amount per donee not to exceed twice the annual federal gift  
32 tax exclusion limit; and

33 (b) Consent, pursuant to internal revenue code section 2513, 26  
34 U.S.C. Sec. 2513, as amended, to the splitting of a gift made by the  
35 principal's spouse in an amount per donee not to exceed the aggregate  
36 annual gift tax exclusions for both spouses.

37 (3) An agent may make a gift outright to, or for the benefit of,  
38 a person of the principal's property only as the agent determines is  
39 consistent with the principal's objectives if actually known by the

1 agent and, if unknown, as the agent determines is consistent with the  
2 principal's best interest based on all relevant factors, including  
3 but not limited to:

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

5 (b) The principal's foreseeable obligations and need for  
6 maintenance;

7 (c) Minimization of taxes, including income, estate, inheritance,  
8 generation-skipping transfer, and gift taxes;

9 (d) Eligibility for a benefit, a program, or assistance under a  
10 statute or rule; and

11 (e) The principal's personal history of making or joining in  
12 making gifts.

13 NEW SECTION. **Sec. 217.** Unless the power of attorney otherwise  
14 provides, where language in a power of attorney grants general  
15 authority with respect to health care matters:

16 (1) The agent shall be authorized to act as the principal's  
17 personal representative pursuant to the health insurance portability  
18 and accountability act, sections 1171 through 1179 of the social  
19 security act, 42 U.S.C. Sec. 1320d, as amended, and applicable  
20 regulations for all purposes thereunder, including but not limited to  
21 accessing and acquiring the principal's health care related  
22 information.

23 (2) The agent shall be authorized to provide informed consent for  
24 health care decisions on the principal's behalf. If a principal has  
25 appointed more than one agent with authority to make mental health  
26 treatment decisions in accordance with a directive under chapter  
27 71.32 RCW, to the extent of any conflict, the most recently appointed  
28 agent shall be treated as the principal's agent for mental health  
29 treatment decisions unless provided otherwise in either appointment.

30 (3) Unless he or she is the spouse, state registered domestic  
31 partner, father or mother, or adult child or brother or sister of the  
32 principal, none of the following persons may act as the agent for the  
33 principal: Any of the principal's physicians, the physicians'  
34 employees, or the owners, administrators, or employees of the health  
35 care facility or long-term care facility as defined in RCW 43.190.020  
36 where the principal resides or receives care. Except when the  
37 principal has consented in a mental health advance directive executed  
38 under chapter 71.32 RCW to inpatient admission or electroconvulsive  
39 therapy, this authorization is subject to the same limitations as

1 those that apply to a guardian under RCW 11.92.043(5) (a) through (c)  
2 and 11.92.190.

3 NEW SECTION. **Sec. 218.** Unless the power of attorney otherwise  
4 provides, the following general provisions shall apply to any power  
5 of attorney making reference to the care of the principal's minor  
6 children:

7 (1) A parent or guardian, through a power of attorney, may  
8 authorize an agent to make health care decisions on behalf of one or  
9 more of his or her children, or children for whom he or she is the  
10 legal guardian, who are under the age of majority as defined in RCW  
11 26.28.015, to be effective if the child has no other parent or legal  
12 representative readily available and authorized to give such consent.

13 (2) A principal may further nominate a guardian or guardians of  
14 the person, or of the estate or both, of a minor child, whether born  
15 at the time of making the durable power of attorney or afterwards, to  
16 continue during the disability of the principal, during the minority  
17 of the child or for any less time by including such a provision in  
18 his or her power of attorney.

19 (3) The authority of any guardian of the person of any minor  
20 child shall supersede the authority of a designated agent to make  
21 health care decisions for the minor only after such designated  
22 guardian has been appointed by the court.

23 (4) In the event a conflict between the provisions of a will  
24 nominating a testamentary guardian under the authority of RCW  
25 11.88.080 and the nomination of a guardian under the authority of  
26 this statute, the most recent designation shall control.

27 **PART III**

28 NEW SECTION. **Sec. 301.** The following optional form may be used  
29 by an agent to certify facts concerning a power of attorney.

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

32 State of \_\_\_\_\_

33 [County] of \_\_\_\_\_]

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

1 I further [certify] that to my knowledge:

2 (1) I am acting in good faith pursuant to the authority given under the power of attorney;

3 (2) The principal is alive and has not terminated, revoked, limited, or modified the power of attorney or my  
4 authority to act under the power of attorney; nor has the power of attorney or my authority to act under the power of  
5 attorney been terminated, revoked, limited, or modified by any other circumstances;

6 (3) When the power of attorney was signed, the principal was competent to execute it and was not under undue  
7 influence to sign;

8 (4) All events necessary to making the power of attorney effective have occurred;

9 (5) If I was married or a registered domestic partner of the principal when the power of attorney was executed,  
10 there has been no subsequent dissolution, annulment, or legal separation;

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

13 (7) If I was named as a successor agent, the prior agent is no longer able or willing to serve, or the conditions  
14 stated in the power of attorney that cause me to become the acting agent have occurred; and

15 (8) \_\_\_\_\_  
16 \_\_\_\_\_  
17 \_\_\_\_\_  
18 \_\_\_\_\_

19 (Insert other relevant statements)

20 **SIGNATURE AND ACKNOWLEDGMENT**

21 \_\_\_\_\_  
22 Agent's Signature Date

23 \_\_\_\_\_  
24 Agent's Name Printed

25 \_\_\_\_\_  
26 \_\_\_\_\_

27 Agent's Address  
28 \_\_\_\_\_

29 Agent's Telephone Number

30 This document was acknowledged before me on \_\_\_\_\_,  
31 (Date)

32 by \_\_\_\_\_  
33 (Name of Agent)

1 \_\_\_\_\_ (Seal, if any)

2 Signature of Notary

3 My commission expires: \_\_\_\_\_

4 [This document prepared by:

5 \_\_\_\_\_]

6 **PART IV**

7 **Sec. 401.** RCW 11.88.080 and 2005 c 97 s 11 are each amended to  
8 read as follows:

9 When either parent is deceased, the surviving parent of any minor  
10 child or a sole parent of a minor child, may by last will or durable  
11 power of attorney nominate a guardian or guardians of the person, or  
12 of the estate or both, of a minor child, whether born at the time of  
13 executing the instrument or afterwards, to continue during the  
14 minority of such child or for any less time. This nomination shall be  
15 effective in the event of the death or incapacity of such parent.  
16 Every guardian of the estate of a child shall give bond in like  
17 manner and with like conditions as required by RCW 11.88.100 and  
18 11.88.110, and he or she shall have the same powers and perform the  
19 same duties with regard to the person and estate of the minor as a  
20 guardian appointed under this chapter. The court shall confirm the  
21 parent's nomination unless the court finds, based upon evidence  
22 presented at a hearing on the matter, that the individual nominated  
23 in the surviving parent's will or durable power of attorney is not  
24 qualified to serve. In the event of a conflict between the provisions  
25 of a will nominating a testamentary guardian under the authority of  
26 this section and the nomination of a guardian under section 218 of  
27 this act, the most recent designation shall control. This section  
28 applies to actions commenced under section 116 of this act.

29 **Sec. 402.** RCW 11.86.021 and 1989 c 34 s 2 are each amended to  
30 read as follows:

31 (1) A beneficiary may disclaim an interest in whole or in part,  
32 or with reference to specific parts, shares or assets, in the manner  
33 provided in RCW 11.86.031.

34 (2) Likewise, a beneficiary may so disclaim through an agent or  
35 attorney so authorized by written instrument.

1 (3) A personal representative, guardian, attorney-in-fact if  
2 authorized under a durable power of attorney under chapter ((11.94))  
3 11.-- RCW (the new chapter created in section 505 of this act), or  
4 other legal representative of the estate of a minor, incompetent, or  
5 deceased beneficiary, may so disclaim on behalf of the beneficiary,  
6 with or without court order, if:

7 (a) The legal representative deems the disclaimer to be in the  
8 best interests of those interested in the estate of the beneficiary  
9 and of those who take the disclaimed interest because of the  
10 disclaimer, and not detrimental to the best interests of the  
11 beneficiary; and

12 (b) In the case of a guardian, no order has been issued under RCW  
13 11.92.140 determining that the disclaimer is not in the best  
14 interests of the beneficiary.

15 **Sec. 403.** RCW 11.88.010 and 2008 c 6 s 802 are each amended to  
16 read as follows:

17 (1) The superior court of each county shall have power to appoint  
18 guardians for the persons and/or estates of incapacitated persons,  
19 and guardians for the estates of nonresidents of the state who have  
20 property in the county needing care and attention.

21 (a) For purposes of this chapter, a person may be deemed  
22 incapacitated as to person when the superior court determines the  
23 individual has a significant risk of personal harm based upon a  
24 demonstrated inability to adequately provide for nutrition, health,  
25 housing, or physical safety.

26 (b) For purposes of this chapter, a person may be deemed  
27 incapacitated as to the person's estate when the superior court  
28 determines the individual is at significant risk of financial harm  
29 based upon a demonstrated inability to adequately manage property or  
30 financial affairs.

31 (c) A determination of incapacity is a legal not a medical  
32 decision, based upon a demonstration of management insufficiencies  
33 over time in the area of person or estate. Age, eccentricity,  
34 poverty, or medical diagnosis alone shall not be sufficient to  
35 justify a finding of incapacity.

36 (d) A person may also be determined incapacitated if he or she is  
37 under the age of majority as defined in RCW 26.28.010.

38 (e) For purposes of giving informed consent for health care  
39 pursuant to RCW 7.70.050 and 7.70.065, an "incompetent" person is any

1 person who is (i) incompetent by reason of mental illness,  
2 developmental disability, senility, habitual drunkenness, excessive  
3 use of drugs, or other mental incapacity, of either managing his or  
4 her property or caring for himself or herself, or both, or (ii)  
5 incapacitated as defined in (a), (b), or (d) of this subsection.

6 (f) For purposes of the terms "incompetent," "disabled," or "not  
7 legally competent," as those terms are used in the Revised Code of  
8 Washington to apply to persons incapacitated under this chapter,  
9 those terms shall be interpreted to mean "incapacitated" persons for  
10 purposes of this chapter.

11 (2) The superior court for each county shall have power to  
12 appoint limited guardians for the persons and estates, or either  
13 thereof, of incapacitated persons, who by reason of their incapacity  
14 have need for protection and assistance, but who are capable of  
15 managing some of their personal and financial affairs. After  
16 considering all evidence presented as a result of such investigation,  
17 the court shall impose, by order, only such specific limitations and  
18 restrictions on an incapacitated person to be placed under a limited  
19 guardianship as the court finds necessary for such person's  
20 protection and assistance. A person shall not be presumed to be  
21 incapacitated nor shall a person lose any legal rights or suffer any  
22 legal disabilities as the result of being placed under a limited  
23 guardianship, except as to those rights and disabilities specifically  
24 set forth in the court order establishing such a limited  
25 guardianship. In addition, the court order shall state the period of  
26 time for which it shall be applicable.

27 (3) Venue for petitions for guardianship or limited guardianship  
28 shall lie in the county wherein the alleged incapacitated person is  
29 domiciled, or if such person resides in a facility supported in whole  
30 or in part by local, state, or federal funding sources, in either the  
31 county where the facility is located, the county of domicile prior to  
32 residence in the supported facility, or the county where a parent or  
33 spouse or domestic partner of the alleged incapacitated person is  
34 domiciled.

35 If the alleged incapacitated person's residency has changed  
36 within one year of the filing of the petition, any interested person  
37 may move for a change of venue for any proceedings seeking the  
38 appointment of a guardian or a limited guardian under this chapter to  
39 the county of the alleged incapacitated person's last place of  
40 residence of one year or more. The motion shall be granted when it

1 appears to the court that such venue would be in the best interests  
2 of the alleged incapacitated person and would promote more complete  
3 consideration of all relevant matters.

4 (4) Under (~~RCW 11.94.010~~) section 108 of this act, a principal  
5 may nominate, by a durable power of attorney, the guardian or limited  
6 guardian of his or her estate or person for consideration by the  
7 court if guardianship proceedings for the principal's person or  
8 estate are thereafter commenced. The court shall make its appointment  
9 in accordance with the principal's most recent nomination in a  
10 durable power of attorney except for good cause or disqualification.

11 (5) Imposition of a guardianship for an incapacitated person  
12 shall not result in the loss of the right to vote unless the court  
13 determines that the person is incompetent for purposes of rationally  
14 exercising the franchise in that the individual lacks the capacity to  
15 understand the nature and effect of voting such that she or he cannot  
16 make an individual choice. The court order establishing guardianship  
17 shall specify whether or not the individual retains voting rights.  
18 When a court determines that the person is incompetent for the  
19 purpose of rationally exercising the right to vote, the court shall  
20 notify the appropriate county auditor.

21 **Sec. 404.** RCW 11.103.030 and 2013 c 272 s 24 are each amended to  
22 read as follows:

23 (1) Unless the terms of a trust expressly provide that the trust  
24 is revocable, the trustor may not revoke or amend the trust.

25 (2) If a revocable trust is created or funded by more than one  
26 trustor and unless the trust agreement provides otherwise:

27 (a) To the extent the trust consists of community property, the  
28 trust may be revoked by either spouse or either domestic partner  
29 acting alone but may be amended only by joint action of both spouses  
30 or both domestic partners;

31 (b) To the extent the trust consists of property other than  
32 community property, each trustor may revoke or amend the trust with  
33 regard to the portion of the trust property attributable to that  
34 trustor's contribution;

35 (c) The character of community property or separate property is  
36 unaffected by its transfer to and from a revocable trust; and

37 (d) Upon the revocation or amendment of the trust by fewer than  
38 all of the trustors, the trustee must promptly notify the other  
39 trustors of the revocation or amendment.

1 (3) The trustor may revoke or amend a revocable trust:

2 (a) By substantial compliance with a method provided in the terms  
3 of the trust; or

4 (b)(i) If the terms of the trust do not provide a method or the  
5 method provided in the terms is not expressly made exclusive, by:

6 (A) A later will or codicil that expressly refers to the trust or  
7 specifically devises property that would otherwise have passed  
8 according to the terms of the trust; or

9 (B) A written instrument signed by the trustor evidencing intent  
10 to revoke or amend.

11 (ii) The requirements of chapter 11.11 RCW do not apply to  
12 revocation or amendment of a revocable trust under (b)(i) of this  
13 subsection.

14 (4) Upon revocation of a revocable trust, the trustee must  
15 deliver the trust property as the trustor directs.

16 (5) A trustor's powers with respect to the revocation or  
17 amendment of a trust or distribution of the property of a trust((~~7~~))  
18 may be exercised by the trustor's agent under a power of attorney  
19 only to the extent specified in the power of attorney document, as  
20 provided in ((~~RCW 11.94.050(1)~~)) section 201 of this act and to the  
21 extent consistent with or expressly authorized by the trust  
22 agreement.

23 (6) A guardian of the trustor may exercise a trustor's powers  
24 with respect to revocation, amendment, or distribution of trust  
25 property only with the approval of the court supervising the  
26 guardianship pursuant to RCW 11.92.140.

27 (7) A trustee who does not know that a trust has been revoked or  
28 amended is not liable to the trustor or trustor's successors in  
29 interest for distributions made and other actions taken on the  
30 assumption that the trust had not been amended or revoked.

31 (8) This section does not limit or affect operation of RCW  
32 11.96A.220 through 11.96A.240.

33 **Sec. 405.** RCW 30A.22.170 and 1981 c 192 s 17 are each amended to  
34 read as follows:

35 Any funds on deposit in an account may be paid by a financial  
36 institution to or upon the order of any agent of any depositor. The  
37 contract of deposit or other document creating such agency on or  
38 after the effective date of this section, and in accordance with  
39 chapter 11.-- RCW (the new chapter created in section 505 of this

1 act), is not affected by the incapacity of the depositor unless  
2 otherwise specified. The contract of deposit or other document  
3 creating the agency prior to the effective date of this section may  
4 provide(~~(, in accordance with chapter 11.94 RCW,~~) that any such  
5 agent's powers to receive payments and make withdrawals from an  
6 account continues in spite of, or arises by virtue of, the  
7 incompetency of a depositor, in which event the agent's powers to  
8 make payments and withdrawals from an account on behalf of a  
9 depositor is not affected by the incompetency of a depositor. Except  
10 as provided in this section, if the authority was created prior to  
11 the effective date of this section the authority of an agent to  
12 receive payments or make withdrawals from an account terminates with  
13 the death or incompetency of the agent's principal: PROVIDED, That a  
14 financial institution is not liable for any payment or withdrawal  
15 made to or by an agent for a deceased or incompetent depositor unless  
16 the financial institution making the payment or permitting the  
17 withdrawal had actual knowledge of the incompetency or death at the  
18 time payment was made.

19 **Sec. 406.** RCW 70.122.130 and 2013 c 251 s 12 are each amended to  
20 read as follows:

21 (1) The department of health shall establish and maintain a  
22 statewide health care declarations registry containing the health  
23 care declarations identified in subsection (2) of this section as  
24 submitted by residents of Washington. The department shall digitally  
25 reproduce and store health care declarations in the registry. The  
26 department may establish standards for individuals to submit  
27 digitally reproduced health care declarations directly to the  
28 registry, but is not required to review the health care declarations  
29 that it receives to ensure they comply with the particular statutory  
30 requirements applicable to the document. The department may contract  
31 with an organization that meets the standards identified in this  
32 section.

33 (2)(a) An individual may submit any of the following health care  
34 declarations to the department of health to be digitally reproduced  
35 and stored in the registry:

36 (i) A directive, as defined by this chapter;

37 (ii) A durable power of attorney for health care, as authorized  
38 in chapter (~~11.94~~) 11.-- RCW (the new chapter created in section  
39 505 of this act);

1 (iii) A mental health advance directive, as defined by chapter  
2 71.32 RCW; or

3 (iv) A form adopted pursuant to the department of health's  
4 authority in RCW 43.70.480.

5 (b) Failure to submit a health care declaration to the department  
6 of health does not affect the validity of the declaration.

7 (c) Failure to notify the department of health of a valid  
8 revocation of a health care declaration does not affect the validity  
9 of the revocation.

10 (d) The entry of a health care directive in the registry under  
11 this section does not:

12 (i) Affect the validity of the document;

13 (ii) Take the place of any requirements in law necessary to make  
14 the submitted document legal; or

15 (iii) Create a presumption regarding the validity of the  
16 document.

17 (3) The department of health shall prescribe a procedure for an  
18 individual to revoke a health care declaration contained in the  
19 registry.

20 (4) The registry must:

21 (a) Be maintained in a secure database that is accessible through  
22 a web site maintained by the department of health;

23 (b) Send annual electronic messages to individuals that have  
24 submitted health care declarations to request that they review the  
25 registry materials to ensure that it is current;

26 (c) Provide individuals who have submitted one or more health  
27 care declarations with access to their documents and the ability to  
28 revoke their documents at all times; and

29 (d) Provide the personal representatives of individuals who have  
30 submitted one or more health care declarations to the registry,  
31 attending physicians, advanced registered nurse practitioners, health  
32 care providers licensed by a disciplining authority identified in RCW  
33 18.130.040 who is acting under the direction of a physician or an  
34 advanced registered nurse practitioner, and health care facilities,  
35 as defined in this chapter or in chapter 71.32 RCW, access to the  
36 registry at all times.

37 (5) In designing the registry and web site, the department of  
38 health shall ensure compliance with state and federal requirements  
39 related to patient confidentiality.

1 (6) The department shall provide information to health care  
2 providers and health care facilities on the registry web site  
3 regarding the different federal and Washington state requirements to  
4 ascertain and document whether a patient has an advance directive.

5 (7) The department of health may accept donations, grants, gifts,  
6 or other forms of voluntary contributions to support activities  
7 related to the creation and maintenance of the health care  
8 declarations registry and statewide public education campaigns  
9 related to the existence of the registry. All receipts from donations  
10 made under this section, and other contributions and appropriations  
11 specifically made for the purposes of creating and maintaining the  
12 registry established under this section and statewide public  
13 education campaigns related to the existence of the registry, shall  
14 be deposited into the general fund. These moneys in the general fund  
15 may be spent only after appropriation.

16 (8) The department of health may adopt rules as necessary to  
17 implement chapter 108, Laws of 2006.

18 (9) By December 1, 2008, the department shall report to the house  
19 and senate committees on health care the following information:

20 (a) Number of participants in the registry;

21 (b) Number of health care declarations submitted by type of  
22 declaration as defined in this section;

23 (c) Number of health care declarations revoked and the method of  
24 revocation;

25 (d) Number of providers and facilities, by type, that have been  
26 provided access to the registry;

27 (e) Actual costs of operation of the registry.

28 **Sec. 407.** RCW 71.32.020 and 2011 c 89 s 15 are each amended to  
29 read as follows:

30 The definitions in this section apply throughout this chapter  
31 unless the context clearly requires otherwise.

32 (1) "Adult" means any individual who has attained the age of  
33 majority or is an emancipated minor.

34 (2) "Agent" has the same meaning as an attorney-in-fact or agent  
35 as provided in chapter (~~11.94~~) 11.-- RCW (the new chapter created  
36 in section 505 of this act).

37 (3) "Capacity" means that an adult has not been found to be  
38 incapacitated pursuant to this chapter or RCW 11.88.010(1)(e).

39 (4) "Court" means a superior court under chapter 2.08 RCW.

1 (5) "Health care facility" means a hospital, as defined in RCW  
2 70.41.020; an institution, as defined in RCW 71.12.455; a state  
3 hospital, as defined in RCW 72.23.010; a nursing home, as defined in  
4 RCW 18.51.010; or a clinic that is part of a community mental health  
5 service delivery system, as defined in RCW 71.24.025.

6 (6) "Health care provider" means an osteopathic physician or  
7 osteopathic physician's assistant licensed under chapter 18.57 or  
8 18.57A RCW, a physician or physician's assistant licensed under  
9 chapter 18.71 or 18.71A RCW, or an advanced registered nurse  
10 practitioner licensed under RCW 18.79.050.

11 (7) "Incapacitated" means an adult who: (a) Is unable to  
12 understand the nature, character, and anticipated results of proposed  
13 treatment or alternatives; understand the recognized serious possible  
14 risks, complications, and anticipated benefits in treatments and  
15 alternatives, including nontreatment; or communicate his or her  
16 understanding or treatment decisions; or (b) has been found to be  
17 incompetent pursuant to RCW 11.88.010(1)(e).

18 (8) "Informed consent" means consent that is given after the  
19 person: (a) Is provided with a description of the nature, character,  
20 and anticipated results of proposed treatments and alternatives, and  
21 the recognized serious possible risks, complications, and anticipated  
22 benefits in the treatments and alternatives, including nontreatment,  
23 in language that the person can reasonably be expected to understand;  
24 or (b) elects not to be given the information included in (a) of this  
25 subsection.

26 (9) "Long-term care facility" has the same meaning as defined in  
27 RCW 43.190.020.

28 (10) "Mental disorder" means any organic, mental, or emotional  
29 impairment which has substantial adverse effects on an individual's  
30 cognitive or volitional functions.

31 (11) "Mental health advance directive" or "directive" means a  
32 written document in which the principal makes a declaration of  
33 instructions or preferences or appoints an agent to make decisions on  
34 behalf of the principal regarding the principal's mental health  
35 treatment, or both, and that is consistent with the provisions of  
36 this chapter.

37 (12) "Mental health professional" means a psychiatrist,  
38 psychologist, psychiatric nurse, or social worker, and such other  
39 mental health professionals as may be defined by rules adopted by the  
40 secretary pursuant to the provisions of chapter 71.05 RCW.

1 (13) "Principal" means an adult who has executed a mental health  
2 advance directive.

3 (14) "Professional person" means a mental health professional and  
4 shall also mean a physician, registered nurse, and such others as may  
5 be defined by rules adopted by the secretary pursuant to the  
6 provisions of chapter 71.05 RCW.

7 (15) "Social worker" means a person with a master's or further  
8 advanced degree from a social work educational program accredited and  
9 approved as provided in RCW 18.320.010.

10 **Sec. 408.** RCW 71.32.050 and 2003 c 283 s 5 are each amended to  
11 read as follows:

12 (1) An adult with capacity may execute a mental health advance  
13 directive.

14 (2) A directive executed in accordance with this chapter is  
15 presumed to be valid. The inability to honor one or more provisions  
16 of a directive does not affect the validity of the remaining  
17 provisions.

18 (3) A directive may include any provision relating to mental  
19 health treatment or the care of the principal or the principal's  
20 personal affairs. Without limitation, a directive may include:

21 (a) The principal's preferences and instructions for mental  
22 health treatment;

23 (b) Consent to specific types of mental health treatment;

24 (c) Refusal to consent to specific types of mental health  
25 treatment;

26 (d) Consent to admission to and retention in a facility for  
27 mental health treatment for up to fourteen days;

28 (e) Descriptions of situations that may cause the principal to  
29 experience a mental health crisis;

30 (f) Suggested alternative responses that may supplement or be in  
31 lieu of direct mental health treatment, such as treatment approaches  
32 from other providers;

33 (g) Appointment of an agent pursuant to chapter (~~11.94~~) 11.--  
34 RCW (the new chapter created in section 505 of this act) to make  
35 mental health treatment decisions on the principal's behalf,  
36 including authorizing the agent to provide consent on the principal's  
37 behalf to voluntary admission to inpatient mental health treatment;  
38 and

1 (h) The principal's nomination of a guardian or limited guardian  
2 as provided in ((RCW 11.94.010)) section 108 of this act for  
3 consideration by the court if guardianship proceedings are commenced.

4 (4) A directive may be combined with or be independent of a  
5 nomination of a guardian or other durable power of attorney under  
6 chapter ((11.94)) 11.-- RCW (the new chapter created in section 505  
7 of this act), so long as the processes for each are executed in  
8 accordance with its own statutes.

9 **Sec. 409.** RCW 71.32.060 and 2003 c 283 s 6 are each amended to  
10 read as follows:

11 (1) A directive shall:

12 (a) Be in writing;

13 (b) Contain language that clearly indicates that the principal  
14 intends to create a directive;

15 (c) Be dated and signed by the principal or at the principal's  
16 direction in the principal's presence if the principal is unable to  
17 sign;

18 (d) Designate whether the principal wishes to be able to revoke  
19 the directive during any period of incapacity or wishes to be unable  
20 to revoke the directive during any period of incapacity; and

21 (e) Be witnessed in writing by at least two adults, each of whom  
22 shall declare that he or she personally knows the principal, was  
23 present when the principal dated and signed the directive, and that  
24 the principal did not appear to be incapacitated or acting under  
25 fraud, undue influence, or duress.

26 (2) A directive executed prior to the effective date of this  
27 section that includes the appointment of an agent pursuant to a power  
28 of attorney under chapter ((11.94)) 11.-- RCW (the new chapter  
29 created in section 505 of this act) shall contain the words "This  
30 power of attorney shall not be affected by the incapacity of the  
31 principal," or "This power of attorney shall become effective upon  
32 the incapacity of the principal," or similar words showing the  
33 principal's intent that the authority conferred shall be exercisable  
34 notwithstanding the principal's incapacity.

35 (3) A directive is valid upon execution, but all or part of the  
36 directive may take effect at a later time as designated by the  
37 principal in the directive.

38 (4) A directive may:

- 1 (a) Be revoked, in whole or in part, pursuant to the provisions  
2 of RCW 71.32.080; or  
3 (b) Expire under its own terms.

4 **Sec. 410.** RCW 71.32.100 and 2003 c 283 s 10 are each amended to  
5 read as follows:

6 (1) If a directive authorizes the appointment of an agent, the  
7 provisions of chapter (~~(11.94)~~) 11.-- RCW (the new chapter created in  
8 section 505 of this act) and RCW 7.70.065 shall apply unless  
9 otherwise stated in this chapter.

10 (2) The principal who appoints an agent must notify the agent in  
11 writing of the appointment.

12 (3) An agent must act in good faith.

13 (4) An agent may make decisions on behalf of the principal.  
14 Unless the principal has revoked the directive, the decisions must be  
15 consistent with the instructions and preferences the principal has  
16 expressed in the directive, or if not expressed, as otherwise known  
17 to the agent. If the principal's instructions or preferences are not  
18 known, the agent shall make a decision he or she determines is in the  
19 best interest of the principal.

20 (5) Except to the extent the right is limited by the appointment  
21 or any federal or state law, the agent has the same right as the  
22 principal to receive, review, and authorize the use and disclosure of  
23 the principal's health care information when the agent is acting on  
24 behalf of the principal and to the extent required for the agent to  
25 carry out his or her duties. This subsection shall be construed to be  
26 consistent with chapters 70.02, 70.24, 70.96A, 71.05, and 71.34 RCW,  
27 and with federal law regarding health care information.

28 (6) Unless otherwise provided in the appointment and agreed to in  
29 writing by the agent, the agent is not, as a result of acting in the  
30 capacity of agent, personally liable for the cost of treatment  
31 provided to the principal.

32 (7) An agent may resign or withdraw at any time by giving written  
33 notice to the principal. The agent must also give written notice to  
34 any health care provider, professional person, or health care  
35 facility providing treatment to the principal. The resignation or  
36 withdrawal is effective upon receipt unless otherwise specified in  
37 the resignation or withdrawal.

1 (8) If the directive gives the agent authority to act while the  
2 principal has capacity, the decisions of the principal supersede  
3 those of the agent at any time the principal has capacity.

4 (9) Unless otherwise provided in the durable power of attorney,  
5 the principal may revoke the agent's appointment as provided under  
6 other state law.

7 **Sec. 411.** RCW 71.32.180 and 2003 c 283 s 18 are each amended to  
8 read as follows:

9 (1) Where an incapacitated principal has executed more than one  
10 valid directive and has not revoked any of the directives:

11 (a) The directive most recently created shall be treated as the  
12 principal's mental health treatment preferences and instructions as  
13 to any inconsistent or conflicting provisions, unless provided  
14 otherwise in either document.

15 (b) Where a directive executed under this chapter is inconsistent  
16 with a directive executed under any other chapter, the most recently  
17 created directive controls as to the inconsistent provisions.

18 (2) Where an incapacitated principal has appointed more than one  
19 agent under chapter ((11.94)) 11.-- RCW (the new chapter created in  
20 section 505 of this act) with authority to make mental health  
21 treatment decisions, ((RCW 11.94.010)) section 217 of this act  
22 controls.

23 (3) The treatment provider shall inquire of a principal whether  
24 the principal is subject to any court orders that would affect the  
25 implementation of his or her directive.

26 **Sec. 412.** RCW 71.32.200 and 2003 c 283 s 20 are each amended to  
27 read as follows:

28 Any person with reasonable cause to believe that a directive has  
29 been created or revoked under circumstances amounting to fraud,  
30 duress, or undue influence may petition the court for appointment of  
31 a guardian for the person or to review the actions of the agent or  
32 person alleged to be involved in improper conduct under ((RCW  
33 ~~11.94.090~~)) section 116 of this act or RCW 74.34.110.

34 **Sec. 413.** RCW 71.32.260 and 2009 c 217 s 14 are each amended to  
35 read as follows:

36 The directive shall be in substantially the following form:

**NOTICE TO PERSONS**

**CREATING A MENTAL HEALTH ADVANCE DIRECTIVE**

This is an important legal document. It creates an advance directive for mental health treatment. Before signing this document you should know these important facts:

(1) This document is called an advance directive and allows you to make decisions in advance about your mental health treatment, including medications, short-term admission to inpatient treatment and electroconvulsive therapy.

**YOU DO NOT HAVE TO FILL OUT OR SIGN THIS FORM.**

**IF YOU DO NOT SIGN THIS FORM, IT WILL NOT TAKE EFFECT.**

If you choose to complete and sign this document, you may still decide to leave some items blank.

(2) You have the right to appoint a person as your agent to make treatment decisions for you. You must notify your agent that you have appointed him or her as an agent. The person you appoint has a duty to act consistently with your wishes made known by you. If your agent does not know what your wishes are, he or she has a duty to act in your best interest. Your agent has the right to withdraw from the appointment at any time.

(3) The instructions you include with this advance directive and the authority you give your agent to act will only become effective under the conditions you select in this document. You may choose to limit this directive and your agent's authority to times when you are incapacitated or to times when you are exhibiting symptoms or behavior that you specify. You may also make this directive effective immediately. No matter when you choose to make this directive effective, your treatment providers must still seek your informed consent at all times that you have capacity to give informed consent.

(4) You have the right to revoke this document in writing at any time you have capacity.

**YOU MAY NOT REVOKE THIS DIRECTIVE WHEN YOU HAVE BEEN FOUND TO BE INCAPACITATED UNLESS YOU HAVE SPECIFICALLY STATED IN THIS DIRECTIVE THAT YOU WANT IT TO BE REVOCABLE WHEN YOU ARE INCAPACITATED.**

(5) This directive will stay in effect until you revoke it unless you specify an expiration date. If you specify an expiration date and you are incapacitated at the time it expires, it will remain in effect until you have capacity to make treatment decisions again unless you chose to be able to revoke it while you are incapacitated and you revoke the directive.

(6) You cannot use your advance directive to consent to civil commitment. The procedures that apply to your advance directive are different than those provided for in the Involuntary Treatment Act. Involuntary treatment is a different process.

(7) If there is anything in this directive that you do not understand, you should ask a lawyer to explain it to you.

(8) You should be aware that there are some circumstances where your provider may not have to follow your directive.

(9) You should discuss any treatment decisions in your directive with your provider.

(10) You may ask the court to rule on the validity of your directive.

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**PART I.**  
**STATEMENT OF INTENT TO CREATE A**  
**MENTAL HEALTH ADVANCE DIRECTIVE**

I, . . . . . being a person with capacity, willfully and voluntarily execute this mental health advance directive so that my choices regarding my mental health care will be carried out in circumstances when I am unable to express my instructions and preferences regarding my mental health care. If a guardian is appointed by a court to make mental health decisions for me, I intend this document to take precedence over all other means of ascertaining my intent.

The fact that I may have left blanks in this directive does not affect its validity in any way. I intend that all completed sections be followed. If I have not expressed a choice, my agent should make the decision that he or she determines is in my best interest. I intend this directive to take precedence over any other directives I have previously executed, to the extent that they are inconsistent with this document, or unless I expressly state otherwise in either document.

I understand that I may revoke this directive in whole or in part if I am a person with capacity. I understand that I cannot revoke this directive if a court, two health care providers, or one mental health professional and one health care provider find that I am an incapacitated person, unless, when I executed this directive, I chose to be able to revoke this directive while incapacitated.

I understand that, except as otherwise provided in law, revocation must be in writing. I understand that nothing in this directive, or in my refusal of treatment to which I consent in this directive, authorizes any health care provider, professional person, health care facility, or agent appointed in this directive to use or threaten to use abuse, neglect, financial exploitation, or abandonment to carry out my directive.

I understand that there are some circumstances where my provider may not have to follow my directive.

**PART II.**  
**WHEN THIS DIRECTIVE IS EFFECTIVE**

*YOU MUST COMPLETE THIS PART FOR YOUR DIRECTIVE TO BE VALID.*

I intend that this directive become effective (*YOU MUST CHOOSE ONLY ONE*):

- . . . . . Immediately upon my signing of this directive.
- . . . . . If I become incapacitated.
- . . . . . When the following circumstances, symptoms, or behaviors occur: . . . . .
- . . . . .
- . . . . .

**PART III.**  
**DURATION OF THIS DIRECTIVE**

*YOU MUST COMPLETE THIS PART FOR YOUR DIRECTIVE TO BE VALID.*

I want this directive to (*YOU MUST CHOOSE ONLY ONE*):

1 . . . . . Remain valid and in effect for an indefinite period of time.  
2 . . . . . Automatically expire . . . . . years from the date it was created.

3  
4 **PART IV.**  
5 **WHEN I MAY REVOKE THIS DIRECTIVE**

6 *YOU MUST COMPLETE THIS PART FOR THIS DIRECTIVE TO BE VALID.*

7 I intend that I be able to revoke this directive (*YOU MUST CHOOSE ONLY ONE*):

8 . . . . . Only when I have capacity.

9 I understand that choosing this option means I may only revoke this directive if I have capacity. I further understand that if  
10 I choose this option and become incapacitated while this directive is in effect, I may receive treatment that I specify in this  
11 directive, even if I object at the time.

12 . . . . . Even if I am incapacitated.

13 I understand that choosing this option means that I may revoke this directive even if I am incapacitated. I further  
14 understand that if I choose this option and revoke this directive while I am incapacitated I may not receive treatment that I  
15 specify in this directive, even if I want the treatment.

16  
17 **PART V.**  
18 **PREFERENCES AND INSTRUCTIONS ABOUT TREATMENT, FACILITIES, AND PHYSICIANS OR**  
19 **PSYCHIATRIC ADVANCED REGISTERED NURSE PRACTITIONERS**

20 **A. Preferences and Instructions About Physician(s) or Psychiatric Advanced Registered Nurse Practitioner(s) to be**  
21 **Involved in My Treatment**

22 I would like the physician(s) or psychiatric advanced registered nurse practitioner(s) named below to be involved in my  
23 treatment decisions:

24 Dr. or PARNP . . . . . Contact information: . . . . .

25 Dr. or PARNP . . . . . Contact information: . . . . .

26 I do not wish to be treated by Dr. or PARNP. . . . .

27 **B. Preferences and Instructions About Other Providers**

28 I am receiving other treatment or care from providers who I feel have an impact on my mental health care. I would like the  
29 following treatment provider(s) to be contacted when this directive is effective:

30 Name . . . . . Profession . . . . . Contact information. . . . .

31 Name . . . . . Profession . . . . . Contact information. . . . .

32 **C. Preferences and Instructions About Medications for Psychiatric Treatment** (*initial and complete all that apply*)

33 . . . . . I consent, and authorize my agent (if appointed) to consent, to the following  
34 medications: . . . . .

1 . . . . . I do not consent, and I do not authorize my agent (if appointed) to consent, to the administration of the following  
2 medications: . . . . .  
3 . . . . . I am willing to take the medications excluded above if my only reason for excluding them is the side effects which  
4 include. . . . .  
5 and these side effects can be eliminated by dosage adjustment or other means  
6 . . . . . I am willing to try any other medication the hospital doctor or psychiatric advanced registered nurse practitioner  
7 recommends  
8 . . . . . I am willing to try any other medications my outpatient doctor or psychiatric advanced registered nurse practitioner  
9 recommends  
10 . . . . . I do not want to try any other medications.

11 **Medication Allergies**

12 I have allergies to, or severe side effects from, the following: . . . . .  
13

14 **Other Medication Preferences or Instructions**

15 . . . . . I have the following other preferences or instructions about medications. . . . .  
16

17 **D. Preferences and Instructions About Hospitalization and Alternatives**

18 *(initial all that apply and, if desired, rank "1" for first choice, "2" for second choice, and so on)*

19 . . . . . In the event my psychiatric condition is serious enough to require 24-hour care and I have no physical conditions  
20 that require immediate access to emergency medical care, I prefer to receive this care in programs/facilities designed as  
21 alternatives to psychiatric hospitalizations.

22 . . . . . I would also like the interventions below to be tried before hospitalization is considered:

23 . . . . . Calling someone or having someone call me when needed.

24 Name: . . . . . Telephone: . . . . .

25 . . . . . Staying overnight with someone

26 Name: . . . . . Telephone: . . . . .

27 . . . . . Having a mental health service provider come to see me

28 . . . . . Going to a crisis triage center or emergency room

29 . . . . . Staying overnight at a crisis respite (temporary) bed

30 . . . . . Seeing a service provider for help with psychiatric medications

31 . . . . . Other, specify: . . . . .

32 **Authority to Consent to Inpatient Treatment**

33 I consent, and authorize my agent (if appointed) to consent, to voluntary admission to inpatient mental health treatment  
34 for . . . . . days *(not to exceed 14 days)*

1 (Sign one):  
2 . . . . . If deemed appropriate by my agent (if appointed) and treating physician or psychiatric advanced registered nurse  
3 practitioner

4 . . . . .

5 (Signature)

6 or

7 . . . . . Under the following circumstances (specify symptoms, behaviors, or circumstances that indicate the need for  
8 hospitalization) . . . . .

9 . . . . .

10 (Signature)

11 . . . . . I do **not** consent, or authorize my agent (if appointed) to consent, to inpatient treatment

12 . . . . .

13 (Signature)

14 **Hospital Preferences and Instructions**

15 If hospitalization is required, I prefer the following hospitals: . . . . .

16 I do not consent to be admitted to the following hospitals: . . . . .

17 **E. Preferences and Instructions About Preemergency**

18 I would like the interventions below to be tried before use of seclusion or restraint is considered

19 (*initial all that apply*):

20 . . . . . "Talk me down" one-on-one

21 . . . . . More medication

22 . . . . . Time out/privacy

23 . . . . . Show of authority/force

24 . . . . . Shift my attention to something else

25 . . . . . Set firm limits on my behavior

26 . . . . . Help me to discuss/vent feelings

27 . . . . . Decrease stimulation

28 . . . . . Offer to have neutral person settle dispute

29 . . . . . Other, specify . . . . .

30 **F. Preferences and Instructions About Seclusion, Restraint, and Emergency Medications**

31 If it is determined that I am engaging in behavior that requires seclusion, physical restraint, and/or emergency use of  
32 medication, I prefer these interventions in the order I have chosen (*choose "1" for first choice, "2" for second choice, and*

33 *so on*):

34 . . . . . Seclusion

1 . . . . . Seclusion and physical restraint (combined)

2 . . . . . Medication by injection

3 . . . . . Medication in pill or liquid form

4 In the event that my attending physician or psychiatric advanced registered nurse practitioner decides to use medication in  
5 response to an emergency situation after due consideration of my preferences and instructions for emergency treatments  
6 stated above, I expect the choice of medication to reflect any preferences and instructions I have expressed in Part III C of  
7 this form. The preferences and instructions I express in this section regarding medication in emergency situations do not  
8 constitute consent to use of the medication for nonemergency treatment.

9 **G. Preferences and Instructions About Electroconvulsive Therapy**

10 **(ECT or Shock Therapy)**

11 My wishes regarding electroconvulsive therapy are (*sign one*):

12 . . . . . I do not consent, nor authorize my agent (if appointed) to consent, to the administration of electroconvulsive  
13 therapy

14 .....

15 (Signature)

16 . . . . . I consent, and authorize my agent (if appointed) to consent, to the administration of electroconvulsive therapy

17 .....

18 (Signature)

19 . . . . . I consent, and authorize my agent (if appointed) to consent, to the administration of electroconvulsive therapy, but  
20 only under the following conditions: .....

21

22

23 (Signature)

24 **H. Preferences and Instructions About Who is Permitted to Visit**

25 If I have been admitted to a mental health treatment facility, the following people are not permitted to visit me there:

26 Name: .....

27 Name: .....

28 Name: .....

29 I understand that persons not listed above may be permitted to visit me.

30 **I. Additional Instructions About My Mental Health Care**

31 Other instructions about my mental health care: .....

32 .....

33 In case of emergency, please contact:

34 Name: ..... Address: .....

1 Work telephone: ..... Home telephone: .....  
2 Physician or Psychiatric Advanced Registered Address: .....  
3 Nurse Practitioner: .....

4 Telephone: .....

5 The following may help me to avoid a hospitalization: .....

6 .....

7 I generally react to being hospitalized as follows: .....

8 .....

9 Staff of the hospital or crisis unit can help me by doing the following: .....

10 .....

11 .....

12 **J. Refusal of Treatment**

13 I do not consent to any mental health treatment.

14 .....

15 (Signature)

16

17

**PART VI.**

18 **DURABLE POWER OF ATTORNEY (APPOINTMENT OF MY AGENT)**

19 *(Fill out this part only if you wish to appoint an agent or nominate a guardian.)*

20 I authorize an agent to make mental health treatment decisions on my behalf. The authority granted to my agent includes  
21 the right to consent, refuse consent, or withdraw consent to any mental health care, treatment, service, or procedure,  
22 consistent with any instructions and/or limitations I have set forth in this directive. I intend that those decisions should be  
23 made in accordance with my expressed wishes as set forth in this document. If I have not expressed a choice in this  
24 document **and my agent does not otherwise know my wishes**, I authorize my agent to make the decision that my agent  
25 determines is in my best interest. This agency shall not be affected by my incapacity. Unless I state otherwise in this  
26 durable power of attorney, I may revoke it unless prohibited by other state law.

27 **A. Designation of an Agent**

28 I appoint the following person as my agent to make mental health treatment decisions for me as authorized in this document  
29 and request that this person be notified immediately when this directive becomes effective:

30 Name: ..... Address: .....

31 Work telephone: ..... Home telephone: .....

32 Relationship: .....

33 **B. Designation of Alternate Agent**

1 If the person named above is unavailable, unable, or refuses to serve as my agent, or I revoke that person's authority to  
2 serve as my agent, I hereby appoint the following person as my alternate agent and request that this person be notified  
3 immediately when this directive becomes effective or when my original agent is no longer my agent:

4 Name: ..... Address: .....  
5 Work telephone: ..... Home telephone: .....  
6 Relationship: .....

7 **C. When My Spouse is My Agent** (*initial if desired*)

8 ..... If my spouse is my agent, that person shall remain my agent even if we become legally separated or our marriage is  
9 dissolved, unless there is a court order to the contrary or I have remarried.

10 **D. Limitations on My Agent's Authority**

11 I do not grant my agent the authority to consent on my behalf to the following:

12 .....  
13 .....

14 **E. Limitations on My Ability to Revoke this Durable Power of Attorney**

15 I choose to limit my ability to revoke this durable power of attorney as follows:

16 .....  
17 .....

18 **F. Preference as to Court-Appointed Guardian**

19 In the event a court appoints a guardian who will make decisions regarding my mental health treatment, I **nominate** the  
20 following person **as my guardian**:

21 Name: ..... Address: .....  
22 Work telephone: ..... Home telephone: .....  
23 Relationship: .....

24 The appointment of a guardian of my estate or my person or any other decision maker shall not give the guardian or  
25 decision maker the power to revoke, suspend, or terminate this directive or the powers of my agent, except as authorized by  
26 law.

27 .....

28 (Signature required if nomination is made)

29

30 **PART VII.**  
31 **OTHER DOCUMENTS**

32 (*Initial all that apply*)

33 I have executed the following documents that include the power to make decisions regarding health care services for  
34 myself:

1 . . . . . Health care power of attorney (chapter ((41-94)) 11.— RCW (the new chapter created in section 505 of this act))

2 . . . . . "Living will" (Health care directive; chapter 70.122 RCW)

3 . . . . . I have appointed more than one agent. I understand that the most recently appointed agent controls except as stated  
4 below:

5 .....

6

7 **PART VIII.**

8 **NOTIFICATION OF OTHERS AND CARE OF PERSONAL AFFAIRS**

9 *(Fill out this part only if you wish to provide nontreatment instructions.)*

10 I understand the preferences and instructions in this part are **NOT** the responsibility of my treatment provider and that no  
11 treatment provider is required to act on them.

12 **A. Who Should Be Notified**

13 I desire my agent to notify the following individuals as soon as possible when this directive becomes effective:

14 Name: ..... Address: .....

15 Day telephone: ..... Evening telephone: .....

16 Name: ..... Address: .....

17 Day telephone: ..... Evening telephone: .....

18 **B. Preferences or Instructions About Personal Affairs**

19 I have the following preferences or instructions about my personal affairs (e.g., care of dependents, pets, household) if I am  
20 admitted to a mental health treatment facility:

21 .....

22 .....

23 **C. Additional Preferences and Instructions:**

24 .....

25 .....

26 .....

27 .....

28

29 **PART IX.**

30 **SIGNATURE**

31 By signing here, I indicate that I understand the purpose and effect of this document and that I am giving my informed  
32 consent to the treatments and/or admission to which I have consented or authorized my agent to consent in this directive. I  
33 intend that my consent in this directive be construed as being consistent with the elements of informed consent under  
34 chapter 7.70 RCW.

1 Signature: ..... Date: .....

2 Printed Name: .....

3 This directive was signed and declared by the "Principal," to be his or her directive, in our presence who, at his or her  
4 request, have signed our names below as witnesses. We declare that, at the time of the creation of this instrument, the  
5 Principal is personally known to us, and, according to our best knowledge and belief, has capacity at this time and does not  
6 appear to be acting under duress, undue influence, or fraud. We further declare that none of us is:

7 (A) A person designated to make medical decisions on the principal's behalf;

8 (B) A health care provider or professional person directly involved with the provision of care to the principal at the time the  
9 directive is executed;

10 (C) An owner, operator, employee, or relative of an owner or operator of a health care facility or long-term care facility in  
11 which the principal is a patient or resident;

12 (D) A person who is related by blood, marriage, or adoption to the person, or with whom the principal has a dating  
13 relationship as defined in RCW 26.50.010;

14 (E) An incapacitated person;

15 (F) A person who would benefit financially if the principal undergoes mental health treatment; or

16 (G) A minor.

17 Witness 1: Signature: ..... Date: .....

18 Printed Name: .....

19 Telephone: ..... Address: .....

20 Witness 2: Signature: ..... Date: .....

21 Printed Name: .....

22 Telephone: ..... Address: .....

24 **PART X.**

25 **RECORD OF DIRECTIVE**

26 I have given a copy of this directive to the following persons: .....  
27 .....

28 DO NOT FILL OUT PART XI UNLESS YOU INTEND TO REVOKE  
29 THIS DIRECTIVE IN PART OR IN WHOLE

31 **PART XI.**

32 **REVOCATION OF THIS DIRECTIVE**

33 *(Initial any that apply):*

34 ..... I am revoking the following part(s) of this directive (specify): .....

1 .....

2 ..... I am revoking all of this directive.

3 By signing here, I indicate that I understand the purpose and effect of my revocation and that no person is bound by any  
4 revoked provision(s). I intend this revocation to be interpreted as if I had never completed the revoked provision(s).

5 Signature: ..... Date: .....

6 Printed Name: .....

7 **DO NOT SIGN THIS PART UNLESS YOU INTEND TO REVOKE THIS**  
8 **DIRECTIVE IN PART OR IN WHOLE**

9 **PART V**

10 NEW SECTION. **Sec. 501.** In applying and construing this uniform  
11 act, consideration must be given to the need to promote uniformity of  
12 the law with respect to its subject matter among the states that  
13 enact it.

14 NEW SECTION. **Sec. 502.** This act modifies, limits, and  
15 supersedes the federal electronic signatures in global and national  
16 commerce act, 15 U.S.C. Sec. 7001 et seq., but does not modify,  
17 limit, or supersede section 101(c) of that act, 15 U.S.C. Sec.  
18 7001(c), or authorize electronic delivery of any of the notices  
19 described in section 103(b) of that act, 15 U.S.C. Sec. 7003(b).

20 NEW SECTION. **Sec. 503.** Except as otherwise provided in this  
21 act, on the effective date of this section:

22 (1) This act applies to a power of attorney created before, on,  
23 or after the effective date of this section;

24 (2) This act applies to a judicial proceeding concerning a power  
25 of attorney commenced on or after the effective date of this section;

26 (3) This act applies to a judicial proceeding concerning a power  
27 of attorney commenced before the effective date of this section  
28 unless the court finds that application of a provision of this act  
29 would substantially interfere with the effective conduct of the  
30 judicial proceeding or prejudice the rights of a party, in which case  
31 that provision does not apply and the superseded law applies; and

32 (4) An act done before the effective date of this section is not  
33 affected by this act.

1        NEW SECTION.    **Sec. 504.**    The following acts or parts of acts are  
2 each repealed:

3        (1) RCW 11.94.010 (Designation—Authority—Effect of acts done—  
4 Appointment of guardian, effect—Accounting—Reliance on instrument)  
5 and 2007 c 156 s 31, 2005 c 97 s 12, 2003 c 283 s 27, 1995 c 297 s 9,  
6 1989 c 211 s 1, & 1985 c 30 s 25;

7        (2) RCW 11.94.020 (Effect of death, disability, or incompetence  
8 of principal—Acts without knowledge) and 1985 c 30 s 26;

9        (3) RCW 11.94.030 (Banking transactions) and 1985 c 30 s 27;

10       (4) RCW 11.94.040 (Liability for reliance on power of attorney  
11 document) and 2001 c 203 s 2 & 1985 c 30 s 28;

12       (5) RCW 11.94.043 (Durable power of attorney—Revocation or  
13 termination) and 1989 c 211 s 2;

14       (6) RCW 11.94.046 (Durable power of attorney—Validity) and 1989 c  
15 211 s 3;

16       (7) RCW 11.94.050 (Attorney or agent granted principal's powers—  
17 Powers to be specifically provided for—Transfer of resources by  
18 principal's attorney or agent) and 2014 c 58 s 23, 2011 c 327 s 4,  
19 2001 c 203 s 12, 1989 c 87 s 1, & 1985 c 30 s 29;

20       (8) RCW 11.94.060 (Conveyance or encumbrance of homestead) and  
21 1985 c 30 s 30;

22       (9) RCW 11.94.070 (Limitations on powers to benefit attorneys-in-  
23 fact) and 1994 c 221 s 67;

24       (10) RCW 11.94.080 (Termination of marriage or state registered  
25 domestic partnership) and 2007 c 156 s 14 & 2001 c 203 s 1;

26       (11) RCW 11.94.090 (Court petition) and 2008 c 6 s 808 & 2001 c  
27 203 s 3;

28       (12) RCW 11.94.100 (Persons allowed to file court petition) and  
29 2008 c 6 s 809 & 2001 c 203 s 4;

30       (13) RCW 11.94.110 (Ruling on court petition) and 2001 c 203 s 5;

31       (14) RCW 11.94.120 (Award of costs on court petition) and 2001 c  
32 203 s 6;

33       (15) RCW 11.94.130 (Applicability of dispute resolution  
34 provisions to court petition) and 2001 c 203 s 7;

35       (16) RCW 11.94.140 (Notice of hearing on court petition) and 2008  
36 c 6 s 810 & 2001 c 203 s 8;

37       (17) RCW 11.94.150 (Mental health treatment decisions—  
38 Compensation of agent prohibited—Reimbursement of expenses allowed)  
39 and 2003 c 283 s 28;

1 (18) RCW 11.94.900 (Application of 1984 c 149 §§ 26-31 as of  
2 January 1, 1985) and 1985 c 30 s 140; and

3 (19) RCW 11.94.901 (Construction—Chapter applicable to state  
4 registered domestic partnerships—2009 c 521) and 2009 c 521 s 37.

5 NEW SECTION. **Sec. 505.** Sections 101 through 301 and 501 through  
6 503 of this act constitute a new chapter in Title 11 RCW.

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