

# A Durable Power of Attorney for My Finances



An easy-to-use form  
for naming someone to  
make financial decisions  
for you in Michigan



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# Who can make financial decisions for me

## Introduction



This document is intended for use in Michigan.

### What this document does

Do you want someone to have the power to make financial decisions for you—either now or if you cannot speak for yourself? Perhaps managing your own affairs has become too difficult or you want to plan for a possible injury or illness that leaves you unable to manage them. If so, you can use this document to:

- name someone you trust to be your agent for your financial decisions,
- state when they can start to act—that is, when this document takes effect, and
- describe their powers to make financial decisions for you.

### How this document is organized

Different parts below are for different people:

- **Section A** (pages 2 through 11) is for you to read, fill out in places, and sign.
- **Section B** (pages 12 through 14) is for the people who act as your witnesses or a notary to sign.
- **Section C** (pages 15 through 16) is for your agent and any backup agent to read and sign.



The shaded boxes will help guide you in places.

### How to use this document

You should fill in this form carefully. Then sign it in the presence of at least two witnesses or a notary. And then you should:

- Give a copy to your agent and any backup agent.
- Keep a copy at home in a place where someone can easily get it if needed.
- From time to time, review it to make sure that you still want the same agent with the same powers.

You can cancel this document at any time. And you can do a new one.

This document does not give legal advice.

# Section A

## About my agent



Look through the document to understand the powers you are giving to your agent.

Choose an adult you can trust. You can change your mind later.

**Print or write neatly.**

### 1. Who I want to be my agent

<b>Name of agent</b>	
<b>Relationship to me</b> (Examples: spouse, sister, friend)	
<b>Address</b>	
<b>Cell phone</b>	
<b>Other phone</b> (if any)	
<b>Email</b> (optional)	

**Go to the next page to name your backup agent**





You do not have to appoint a backup (a successor), but it's a good idea — in case your main agent cannot act for some reason.



Michigan law allows you to appoint coagents who can act independently — instead of a main agent and a backup. If you wish to have coagents, you should consult with an attorney and not use this form.

## 2. Who I want as my backup agent

If my main agent dies or becomes incapacitated, my backup agent becomes my agent. If my main agent wishes to resign, they may do so by:

- notifying me, if I am not incapacitated, or
- if I am incapacitated, notifying my backup agent.

When I say “agent” in this document, I mean to include the backup agent if the main agent is no longer serving.

### Backup agent

<b>Name of backup</b>	
<b>Relationship to me</b> (Examples: spouse, sister, friend)	
<b>Address</b>	
<b>Cell phone</b>	
<b>Other phone</b> (if any)	
<b>Email</b> (optional)	

### 3. When can my agent act?

Unless you choose a different time, this power of attorney is effective as soon as it is completed with the required signatures. **You do not need to do anything more on this page if you want this power to take effect immediately.**



But if you want a different effective date, you can make one of the three choices below. Do not choose more than one.



See part 4 on page 5 for “when I am incapacitated.”

#### Choice 1

This power of attorney becomes effective only when I become incapacitated in the future—so that I cannot manage my own financial affairs.

I make choice 1. Initials

#### Choice 2

This power of attorney becomes effective on this date: \_\_\_\_\_

I make choice 2. Initials

#### Choice 3

This power of attorney becomes effective if and when this happens:

I make choice 3. Initials



See part 9 on page 8 for how to cancel.

This power of attorney is not affected by the passing of time; it continues to be effective unless I cancel it.

## 4. When am I incapacitated so that I cannot manage my own financial affairs, and who can decide?

This part 4 applies only if I made choice 1 on page 4.

I am considered incapacitated if I cannot manage my property or business affairs for any of the following reasons:

- I have an impaired ability to understand information, or to make or communicate information, even with help from technology.
- I cannot be located.
- I am being held somewhere, including in a prison or jail.
- I am outside the United States and cannot return.

Any of the following can determine that I am incapacitated:

- This person \_\_\_\_\_.
- A doctor or licensed psychologist.
- An attorney, judge, or appropriate government official.



You should also have a full medical power of attorney. One is available online at the Kimble Center.

## 5. The general powers that I give my agent

### General power

I grant my agent the power to make any decisions about my financial affairs on the subjects defined in Michigan's uniform power of attorney act (MCL 556.303 through MCL 556.316)—the same as I could do if personally present.

This means that my agent has the power to make decisions about or deal with any of the following listed below, unless I have crossed it out and initialed it.

### Subjects included within the general power

- Real property (for example, land, buildings)
- Tangible personal property (for example, furniture, cash)
- Stocks and bonds
- Commodities and options
- Banks and other financial institutions
- Operating an entity or business
- Insurance and annuities



The examples and explanations in parentheses are, of course, not a complete description of the agent's powers under those subjects.

The list continues on the next page





For a complete description of your agent's powers, you can Google "Michigan uniform power of attorney act" or possibly visit a local library.

- Estates, trusts, and other beneficial interests (for example, assets left to me in someone else's will)
- Claims and litigation (matters involving court or administrative-agency proceedings)
- Personal and family maintenance (matters related to maintaining the health and standard of living of me, my spouse and children, and those I support financially)
- Benefits from government programs or civil or military service (for example, Social Security, Medicare, Medicaid)
- Retirement plans (for example, IRA, pension)
- Taxes



Be careful: any of these could significantly reduce your property or how it is distributed when you die. Make sure that you trust your agent.

If you are uncertain about granting these specific powers, you should seek legal advice.

## 6. Other possible powers (optional)



Put your initials next to each one that you agree with. You do not need to agree with any of them.

In addition to the general powers described in part 5 above, I grant my agent the following specific powers:

Create, amend, revoke, or terminate a living trust—that is, a trust that holds my assets for me during my lifetime.

I agree

Create or change rights of survivorship—for example, by creating an account or other asset that makes the agent a joint owner with me.

I agree

Make a gift on my behalf (with the limitation in part 7 on page 8).

I agree



Michigan law, MCL 556.317, sets out factors that should be considered when making a gift.

Continued on the next page





Again, be careful: any of these could significantly reduce your property or how it is distributed when you die. Make sure that you trust your agent.

If you are uncertain about granting these specific powers, you should seek legal advice.

Create or change a beneficiary designation—for example, on a bank account or IRA.

**I agree**

Authorize another person to act as my agent to make financial decisions for me.

**I agree**

Waive my own right to be a beneficiary of a joint and survivor annuity, including a survivor benefit under a retirement plan.

**I agree**

Exercise fiduciary powers that I have the authority to delegate.

**I agree**

Access the content of electronic communications that I send or receive, including text and email messages.

**I agree**

Exercise authority over any bank, securities, or other financial accounts outside the United States.

**I agree**





Michigan law, MCL 556.317, sets out factors that should be considered when making a gift.

## 7. Restrictions on my agent's powers

I do not give my agent any power to use my property to benefit the agent or someone the agent has an obligation to support, unless:

- The agent is my ancestor, spouse, or descendant, or
- I have initialed this box

This part 7 controls even if I gave my agent the power to make a gift in part 6.



You are not required to add anything here.

If you do add things and need more space, attach an extra page called "Addition to part 8."

But be careful not to contradict another part of this document.

## 8. Special instructions (optional)

Here are other instructions to my agent or limitations on my agent's authority.

## 9. How long does this document last?

### Can I change my mind?

I can cancel this power of attorney at any time and in any manner by which I am able to communicate my intent to cancel.

After my agent receives notice of the cancellation, it binds my agent and anyone my agent deals with. If not canceled earlier, this power of attorney ends when I die.

## 10. What if I have a previous power of attorney?

This part 10 applies only if I created a previous power of attorney.

I cancel the previous power of attorney.

Initials

I do not cancel the previous power of attorney.

Initials



If you check this second box, you may have more than one agent with power over your financial affairs.

## 11. What if I need a conservator or guardian? (optional)

If a court needs to appoint someone as conservator or guardian of my estate, or as guardian of my person, this is who I nominate:

### My nominee for conservator or guardian of my estate

Name

Address

Phone

Email (optional)



“Conservator” and “guardian” are legal terms for someone who protects or cares for your estate or you yourself.

### My nominee for conservator or guardian of my person

Name

Address

Phone

Email (optional)



Michigan law makes it harder for someone to decline to accept a notarized power of attorney. See page 14.

## 12. When can a third party rely on this power of attorney?

If this power of attorney is notarized and a third party accepts it in good faith, the third party may rely on it as valid—unless they actually know that it is not valid or that the agent has exceeded their authority.

## 13. My agent’s reporting and accounting responsibilities

My agent must disclose receipts, payments, or transactions while acting as my agent if:

- I ask for any or all of them,
- a court orders disclosure, or
- a guardian, conservator, or other fiduciary asks for any or all of them.

## 14. Reimbursement and compensation for my agent

Please make one of the two choices below.

I want my agent to be reimbursed for expenses reasonably incurred—and to be reasonably compensated for services performed—on my behalf.

**Initials**

I do not want my agent to receive this reimbursement and compensation.

**Initials**

## 15. My agent’s liability

My agent is not liable to me for any action taken under this power of attorney unless my agent acted in bad faith or with reckless indifference.

## 16. Other legal points

- Michigan law governs this document. It is intended to be valid wherever it is presented.
- If one provision in this document turns out to be invalid, the others remain in effect.
- A copy of this document has the same legal force as the original.



The law allows for the form to be signed by someone else if:

- you are present and conscious, and
- you direct them to sign your name.

## 17. My signature

I am at least 18 years old. I understand this document and sign it voluntarily.

<b>Name (print)</b>	
<b>Signature</b>	
<b>Address</b>	
<b>Date</b>	

## Section B

# Statement and signature by witnesses or notary



For this document to be “durable,” it must be signed in front of at least two witnesses or acknowledged before a notary public. But for other legal reasons, having it notarized is recommended. See page 14.

In this part, “you” means the person who gave this durable power of attorney and signed it.

As a witness, I declare that:

- You signed this document—or directed someone to sign your name—in front of me.
- You appear to have the capacity to manage your property and affairs.
- You appear to be signing of your own free will—and not because of any fraud or any improper pressure or influence on you.

I also declare that I am at least 18 years old and that I am not your agent.



“Durable” means that the agent’s power continues while you are alive or incapacitated, unless you have revoked it or it has otherwise ended in some way.

**Go to the next page for witnesses to sign**



## Witness signatures



You need only two witnesses, but having a third is a good idea in case one of them wasn't a proper witness for some reason.

### Witness #1

<b>Name (print)</b>	
<b>Signature</b>	
<b>Address</b>	
<b>Date</b>	

### Witness #2

<b>Name (print)</b>	
<b>Signature</b>	
<b>Address</b>	
<b>Date</b>	

### Witness #3

<b>Name (print)</b>	
<b>Signature</b>	
<b>Address</b>	
<b>Date</b>	

## Notary



If you have witnesses' signatures, technically you do not need to have this document notarized. But it's best to have it notarized anyway. Having it notarized makes it harder for someone (a bank, for instance) to not accept it. So if at all possible, have it notarized.

Signed and sworn to before me on \_\_\_\_\_  
(Date)

in \_\_\_\_\_ County, Michigan.

Signature \_\_\_\_\_

My commission expires \_\_\_\_\_  
(Date)

Notary public in \_\_\_\_\_ County, Michigan.

Stamp here

(If applicable)

The notarization was done through:

- An electronic-notarization system (MCL 55.286a)
- A remote electronic-notarization platform (MCL 55.286b)

# Section C

## Acceptance by agents



“Principal” here means the person who is creating this durable power of attorney.

I, \_\_\_\_\_ (main agent),  
 \_\_\_\_\_ (backup agent, if any),  
 agree to be the financial agent  
 for \_\_\_\_\_, the principal, under a durable power  
 of attorney dated \_\_\_\_\_.

By signing this document, I acknowledge that if and when I act as agent, I must:

- Do what the principal reasonably expects me to do; if I do not know what those expectations are, I must act in the principal’s best interest.
- Act in good faith.
- Not go beyond the authority granted by this power of attorney.
- Keep a record of my transactions as agent, including receipts, payments, and investments.
- Identify myself as the principal’s agent whenever I act on the principal’s behalf; I can do this by writing the principal’s name and then signing my own name followed by “as agent.”

Unless the principal gave other instructions in part 8 or a court orders otherwise, I must also:

- Be loyal to the principal.
- Avoid conflicts that might prevent me from acting in the principal’s best interest.
- Act with care, competence, and diligence.
- Cooperate with anyone who has authority to make healthcare decisions for the principal.
- Do my best to preserve the principal’s estate plan if I know that the plan and preserving it is in the principal’s best interest.

### Termination

I understand that I must stop acting as the principal’s agent if this power of attorney is terminated by the principal’s death, or the principal revokes the power of attorney or my authority.

### Liability

I may be subject to civil or criminal penalties if I violate my duties to the principal.



Go to the next page for agents to sign



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### Agent

<b>Name (print)</b>	
<b>Signature</b>	
<b>Address</b>	
<b>Cell phone</b>	
<b>Other phone (if any)</b>	
<b>Date</b>	

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### Backup Agent

<b>Name (print)</b>	
<b>Signature</b>	
<b>Address</b>	
<b>Cell phone</b>	
<b>Other phone (if any)</b>	
<b>Date</b>	



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