

Power of Attorney

This packet contains the Alaska form for a Power of Attorney. Alaska Legal Services Corporation provides this as a service to you and does not take responsibility for how you fill it out. The law allows you to fill out this form on your own. This packet contains general information to assist you. However, if you have questions, please contact an attorney. The Alaska Bar Association (272-0352 or 1-800-770-9999 outside Anchorage) can provide you with a list of attorneys. If you cannot afford an attorney or if you are 60 years or older, Alaska Legal Services may be able to assist you. Please call: Anchorage, 272-9431 or (888) 478-2572; Bethel, 543-2237 or (800) 478-2230; Dillingham, 842-1452 or (888) 391-1475; Fairbanks, 452-5181 or (800) 478-5401; Juneau, 586-6425 or (800) 789-6426; Kenai (953-7608); Ketchikan, 225-6420; Kotzebue, 442-3500 or (877) 622-9797; and Nome, 443-2230 or (888) 495-6663.

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For information regarding many other legal topics, see www.alaskalawhelp.org

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DIRECTIONS

What is a Power of Attorney?

You make a variety of decisions every day. If you sign a *Power of Attorney*, you give another person (your agent) the right to make decisions for you and you give them the authority to carry the decisions out. The form provided here is based upon the Alaska Statutes (AS 13.26.332-335) and it can be tailored to meet your specific needs. For instance, you can grant your agent broad powers to do almost anything you could do for yourself (general power of attorney) or you can pick and choose the powers you want to give an agent (specific power of attorney). You can choose to appoint an agent immediately or you can make the appointment effective only if you become disabled. You can limit the time your agent will have power to act on your behalf or you can make the appointment “durable,” which means your agent will have powers even if you become disabled. You can also state that the appointment will be revoked upon your incapacity.

Please note, Alaska now has a separate law addressing health care advance directives. Issues addressed include the designation of a health care agent, end-of-life treatment decisions (living wills), mental health care treatment options, and organ donation (see AS 13.52). There is a separate pamphlet and form titled the *Alaska Advance Health Care Directive* that should be used for all health care related issues.

Section 1. Naming your agent.

It is critically important that you thoroughly trust the person you name in your *Power of Attorney*. The authority you give as the “principal” can have a major impact on you. For instance, your agent may sell your house, withdraw money from your accounts, or place you in a nursing home. Unlike a guardian or conservator, a person acting with a *Power of Attorney* does not have to answer to a court. There will be no formal oversight of your agent regarding the decisions he or she makes. In addition, it is very important to make sure the agent understands what your wishes are. Therefore, it is highly recommended that you discuss your wishes and desires with the person you name in your *Power of Attorney*. However, as long as you are competent, you do have the right to revoke a *Power of Attorney*.

Section 2. Choosing which powers to grant on *Power of Attorney* form.

You do not have to give your agent authority for all of the powers listed in Section 2 of the *Power of Attorney* form. You can limit which powers you give by **crossing out** any undesired provisions **AND** putting your initials on the line in front of it. Any power (A-O) that is not crossed out and initialed will be granted to your agent. You can find more detailed information about what powers each provision grants by asking an attorney or reading Alaska Statute Section 13.26.344.

Section 3.

You can name more than one person to act on your behalf. If you name more than one agent in Section 1, you must mark the first or second statement in Section 3. Mark the first statement if you want to allow each agent to make decisions without getting approval from the other. If you want both agents to act together, jointly, mark the second sentence.

Section 4.

Sections 4, 5, and 6 let you decide when and for how long you want the *Power of Attorney* to be effective. If you mark the first sentence in Section 4, the document will become effective immediately and the person you named as your agent will have the power to act on your behalf. Some people do not want this. Instead, you may want to designate an agent only in the event you cannot act on your own behalf. **Marking the second sentence makes the appointment of an agent effective only when you become incapacitated.**

Section 5.

If you choose to make your Power of Attorney effective immediately, then in Section 5 you must decide whether it will be “durable.” A durable power of attorney remains effective in the event you become incapacitated. If you want your agent to continue to have authority under such circumstances, mark the first sentence in Section 5. If not, mark the second sentence in Section 5.

Section 6.

This section allows you to pick a date on which the *Power of Attorney* will no longer be valid. If you want to appoint someone as your agent to accomplish a specific task or only for a limited period of time, you should complete this section. Do not complete this section if you want your power of attorney to be “durable” or to become effective only if you become disabled.

Section 7.

You can revoke the *Power of Attorney* for any reason at any time, provided you are mentally competent to do so. **To revoke your Power of Attorney**, destroy the original and either (1) complete a new *Power of Attorney*, if you wish to name another person, OR (2) create a *Notice of Revocation* by writing a brief notarized statement revoking the old *Power of Attorney*. The new *Power of Attorney*, or the *Notice of Revocation*, needs to be distributed in the same manner as you distributed the old *Power of Attorney*. To be safe, you may want to send the *Notice of Revocation* directly to the agent via first class mail, return receipt requested. You may also wish to record the *Notice of Revocation* with a state Recorder’s office.

Section 8.

This section is optional. If you have executed an advanced health care directive, you may want to indicate this fact by marking the appropriate statement.

Section 9.

This section is optional. It’s possible that the person you name as your agent will not be able to perform his or her duties. For instance, your agent may move out of state, die, or otherwise become incapable of performing. To address this possibility, you may want to name a replacement just in case.

Signatures

Finally, the *Power of Attorney* must be signed in front of a notary and sealed by him or her. Once you have completed the *Power of Attorney*, you should give the original to whomever you named as the power of attorney, distribute copies to important people (doctor, banker, etc.), and keep a copy for yourself. If you later revoke the *Power of Attorney*, you should distribute the revocation in the same manner as you distributed the original.

POWER OF ATTORNEY

The powers granted from the principal to the agent or agents in the following document are very broad. They may include the power to dispose, sell, convey, and encumber your real and personal property. Accordingly, the following document should only be used after careful consideration. If you have any questions about this document, you should seek competent advice. You may revoke this power of attorney at any time.

Section 1. Pursuant to A.S.13.26.338 - 13.26.353,

I, _____, of _____, do hereby appoint
(Name of principal) (Address of principal)

_____ as
(Name and address of agent or agents)

my attorney(s)-in-fact to act as I have checked below in my name, place and stead in any way which I myself could do, if I were personally present, with respect to the following matters, as each of them is defined in AS 13.26.344, to the full extent that I am permitted by law to act through an agent:

Section 2. The agent or agents you have appointed will have all the powers listed below **UNLESS** you draw a line through a category; **AND** initial the space before that category.

- _____ (A) Real estate transactions
- _____ (B) Transactions involving tangible personal property, chattels, and goods
- _____ (C) Bonds, shares, and commodities transactions
- _____ (D) Banking transactions
- _____ (E) Business operating transactions
- _____ (F) Insurance transactions
- _____ (G) Estate transactions
- _____ (H) Gift transactions
- _____ (I) Claims and litigation
- _____ (J) Personal relationships and affairs
- _____ (K) Benefits from government programs and military service
- _____ (L) (repealed)
- _____ (M) Records, reports, and statements
- _____ (N) Delegation
- _____ (O) All other matters, including those specified as follows:

Section 3. If you have appointed more than one agent, check one of the following:

- _____ Each agent may exercise the powers conferred separately, without the consent of any other agent.
- _____ All agents shall exercise the powers conferred jointly, with the consent of all other agents.

DURABLE POWER OF ATTORNEY OPTIONS

(Sections 4, 5 and 6 allow you to choose whether or not you want this to be a durable power of attorney and when you want it to go into effect.)

Section 4. To indicate when this document shall become effective, check one of the following:

- This document shall become effective upon the date of my signature.
 This document shall become effective upon the date of my disability and shall not otherwise be affected by my disability.

Section 5. If you have indicated that this document shall become effective on the date of your signature check one of the following:

- This document shall not be affected by my subsequent disability.
 This document shall be revoked by my subsequent disability.

If you want this to be a durable power of attorney, do not limit the term of this document in Section 6.

Section 6. If you have indicated that this document shall become effective upon the date of your signature and want to limit the term of this document, complete the following:

This document shall only continue in effect for _____(____) years from the date of my signature.

Section 7. Notice of revocation of the powers granted in this document.

You may revoke one or more of the powers granted in this document. Unless otherwise provided in this document, you may revoke a specific power granted in this power of attorney by completing a special power of attorney that includes the specific power in this document that you want to revoke. Unless otherwise provided in this document, you may revoke all the powers granted in this power of attorney by completing a subsequent power of attorney.

Additional Provisions

Section 8. If you have given an agent authority regarding health care services, complete the following:

I have executed a separate declaration under AS 13.52 known as an "Alaska Advance Health Care Directive."

I have not executed an "Alaska Advance Health Care Directive."

Section 9. You may designate an alternate attorney-in-fact. Any alternate you designate will be able to exercise the same powers as the agent(s) you named at the beginning of this document. If you wish to designate an alternate or alternates, complete the following:

If the agent(s) named at the beginning of this document is unable or unwilling to serve or continue to serve, then I appoint the following agent to serve with the same powers:

First alternate or successor attorney-in-fact _____
(Name and address of alternate)

Second alternate or successor attorney-in-fact _____
(Name and address of alternate)

Section 10. Notice to Third Parties

A third party who relies on the reasonable representations of an attorney-in-fact as to a matter relating to a power granted by a properly executed statutory power of attorney does not incur any liability to the principal or to the principals heirs, assigns, or estate as a result of permitting the attorney-in-fact to exercise the authority granted by the power of attorney. A third party who fails to honor a properly executed statutory form power of attorney may be liable to the principal, the attorney-in-fact, the principal's heirs, assigns, or estate for civil penalty, plus damages, costs, and fees associated with the failure to comply with the statutory form power of attorney. If the power of attorney is one which becomes effective upon the disability of the principal, the disability of the principal is established by an affidavit, as required by law.

In Witness Whereof, I have hereunto signed my name this _____ day of _____, 20____.

(Signature of principal)

STATE OF ALASKA)
) ss.
__ JUDICIAL DISTRICT)

Acknowledged before me at _____ on the _____ day of _____, 20__.

Signature of officer or notary. Serial number, if any; date commission expires.

TRANSLATION CLAUSE (if needed)

I certify that I have translated the provisions of the foregoing *Power of Attorney* from the English language to the _____ language to the best of my ability.

Translator