

SUMMARY OF “COLORADO’S UNIFORM POWER OF ATTORNEY ACT”

- 1. Effective Date: 1/1/10.**
- 2. POA is “Durable” unless stated otherwise.**
- 3. Effect of Acknowledgement before a Notary Public: Principal’s (“P”) signature is presumed to be “genuine.”**
- 4. Validity of Prior POAs: Presumed Valid.**
- 5. When POA is Effective: when executed, unless stated otherwise.**
- 6. How POA is Terminated:**
 - i. Revocation by the P**
 - ii. Death or Incapacity of Agent**
 - iii. Dissolution of Marriage (unless stated otherwise)**
- 7. Co-agents & Successor-Agents: Acceptable**
- 8. Reimbursement & Compensation of Agent: Acceptable if “reasonable”**
- 9. 9. Agent’s Duties: Act in accord with P’s reasonable expectations:**
 - a. Act in good faith**
 - b. Act only within scope of authority granted**
 - c. Act loyally**
 - d. Keep a record of all transactions**
 - e. Cooperate with agent under a medical POA**
 - f. Attempt to preserve P’s estate plan**
 - g. Act with care, competence & diligence**
- 10. Exoneration of Agent: Permissible but not for dishonest acts or abuse of confidential or fiduciary relationship**
- 11. Judicial Relief: The following person(s) may petition a Court for Review of Agent’s Conduct: P or Agent**
 - i. Guardian, Conservator or other fiduciary of P**
 - ii. Agent under a medical POA**
 - iii. P’s spouse, parent, or descendent**
 - iv. P’s potential heirs**
 - v. P’s potential beneficiary**
 - vi. Adult Protective Services**

- vii. P's caregiver or "*another person that demonstrates sufficient interest in the Principal's welfare*"
 - viii. A person asked to accept the POA
12. **Agent's Liability for Wrongdoing: Restitution**
 - a. Reimbursement including costs & atty. fees (N.B. These remedies are not exclusive). Agent's Resignation: To the P (if competent)
 13. **If P is incapacitated to: P's Conservator or Guard, co-agent or successor-agent**
 - i. P's caregiver or "*another person reasonably believed to have sufficient interest in P's welfare*" or
 - ii. to Adult Protective Services
 14. **Third Party Reliance: May rely on POA if acknowledged but**
 - i. may also request additional verification
 15. **Third Party Refusal to Accept POA: May not require additional or different form of POA but may refuse to accept POA if, in good faith, suspects misuse**
 16. **Authority of Agent: Requires express authority from P or the following acts:**
 - i. Create, amend, revoke or terminate a trust
 - ii. Make a gift
 - iii. Create or change rights of survivorship
 - iv. Create or change a beneficiary designation
 - v. Waive P's rights to be a beneficiary
 - vi. Disclaim property for the Principal
 17. **N.B. A non-relative agent may not create an interest in P's property for the agent or others by gift or otherwise unless expressly authorized by P.**
 18. **Gifts:**
 - a. Amounts generally limited to annual dollar limits of the federal gift tax exclusion.
 - b. Must be consistent with P's estate plan and previous pattern of gifting, if known