

# UNOFFICIAL COPY

Doc#: 2309619078 Fee: \$98.00  
Karen A. Yarbrough  
Cook County Clerk  
Date: 04/06/2023 12:53 PM Pg: 1 of 8

Power of Attorney Recording Cover Sheet

Property of Cook County Clerk's Office

# UNOFFICIAL COPY

## ILLINOIS STATUTORY SHORT FORM DURABLE POWER OF ATTORNEY FOR PROPERTY

POWER OF ATTORNEY MADE ON THE 14<sup>th</sup> DAY OF June, 2018

### ARTICLE I. INTRODUCTION

I, Rodolfo Rivera, hereby revoke all prior powers of attorney for property executed by me and appoint Andres Garibay as my attorney-in-fact (my "agent") to act for me and in my name (in any way I could act as a person) with respect to the following powers, as defined in Section 3-4 of the "Statutory Short Form Power of Attorney for Property Law" (including all amendments), but subject to any limitations on or additions to the specified powers inserted below in Article IIA, paragraph 2 or 3:

- |   |  |   |
|---|--|---|
| • Real Estate Transactions                | • Insurance and Annuity Transactions                         | • Commodity and Option Transactions           |
| • Financial Institution Transactions      | • Retirement Plan Transactions                               | • Business Operations                         |
| • Stock and Bond Transactions             | • Social Security, Employment, and Military Service Benefits | • Estate Transactions                         |
| • Tangible Personal Property Transactions | • Tax Matters  | • All other property powers and transactions. |
| • Safe Deposit Box Transactions           | • Claims and Litigations                                     |   |

#### A. SUCCESSIVE AGENTS.

If any agent named by me shall die, become incompetent, resign, or refuse to accept the office of agent, I name the following as successor(s) to such agent; to serve successively in the following order:

- 1.) Maricela Rivera

#### A. INCOMPETENCY OF MY AGENT.

An agent appointed hereunder shall be considered to be incompetent if and while the person is a minor, an adjudicated incompetent or disabled person, or the person is unable to give prompt and intelligent consideration to business matters, as certified by a licensed physician.

#### B. APPOINTMENT OF GUARDIAN.

If a guardian of my estate (my property) is to be appointed, for whatever reason, I nominate the agent, appointed hereunder as such guardian.

# UNOFFICIAL COPY

## ARTICLE II. MODIFICATIONS TO THE ABOVE GRANTED POWERS

### A. ADDITIONS.

In addition to the powers granted above, I grant my agent the following powers:

#### (1) Professional Services.

To compensate separately any brokers, attorneys, auditors, depositories, real estate managers, investment advisors, and other persons. Should my agent retain the services of a law firm who has previously represented me, my attorneys are permitted to release any and otherwise privileged or confidential information to my agent, while my agent is acting in a fiduciary capacity under the terms of this instrument.

#### (2) Trusts.

My agent is authorized to create and fund, with my assets a special needs trust established for my benefit pursuant to 42 USC § 1396p(d)(4)(A) or 42 USC § 1396p(d)(4)(C) and 89 Ill. Admin. Code tit. 1, § 120.347 (or similar statute), distributable at my death first to reimburse the State of Illinois, or any other state, for any medical assistance or other governmental benefits paid out on my behalf during my lifetime, and then any remaining trust estate distributable to the beneficiaries named under my Last Will.

My agent is authorized to create and fund, with my assets, an irrevocable trust of which I am not a beneficiary. Permissible beneficiaries may include those individuals who are named beneficiaries or legatees of my estate planning documents, and if my agent is in the class of permitted beneficiaries, my agent may benefit as a beneficiary.

Should I personally establish a Trust, or should my agent establish a Trust on my behalf, my agent shall have the power to change title or the beneficiary of my assets to any such Trust.

My agent has the power to withdraw and/or receive income or principal from any trust in which I have a right of withdrawal or receipt; to request and receive the income or principal of any trust regarding which trustee has discretionary authority to make distributions to or on my behalf, and to execute any receipt, release, or other document that maybe required of me by such trustee.

#### (3) Power to Apply for & Maintain Governmental and Insurance Benefits.

My agent shall have the right to apply for governmental and insurance benefits on my behalf. My agent shall have the power to take any and all steps necessary, in my agent's judgement, to maintain eligibility for any and all public benefits and entitlement programs, including but not limited to: Social Security, Medicare, Medicaid, and the Community Care Program. My agent shall have the power to apply for governmental benefits and to continue working towards my eligibility for benefits, and to file an appeal on my behalf of any benefit program, even after my death may occur.

#### (4) Gifts.

My agent shall have discretionary power and is authorized to: (a) make gifts, including annual exclusion gifts, gifts to pay tuition and medical expenses, and taxable gifts; (b) to file and execute gift tax returns; and (c) to use up my unified credit during my lifetime. Permissible recipients of said gifts shall include those individuals who are named beneficiaries or legatees of my estate planning documents. If my agent is in the class of

# UNOFFICIAL COPY

permitted gift recipients, my agent shall be permitted to make gifts benefiting the agent. Gifts may be made either directly, in trust, or to a custodian under the Illinois Uniform Transfers to Minors Act.

## **(5) Transfer on Death Instrument.**

My agent shall have the authority to create and/ or revoke a Transfer on Death Instrument on my behalf with respect to any residential real estate which I may own. Permissible beneficiaries of said Transfer on Death Instruments shall include any trust established by me or on my behalf and/or those individuals who are named beneficiaries or legatees of my estate planning documents.

## **(6) Pre-Paid Plan.**

My agent is authorized to purchase an irrevocable pre-paid plan regarding the disposition of my remains for the purposes of Medicaid eligibility pursuant to 89 Illinois Administrative Code 120.331 (b)-(d).

## **(7) Payment for Care Management.**

I consider the task of managing and overseeing care and service providers to be very important to my quality of life. I direct that such services be compensated at the then current market value rate. Should any agent, family member, or friend personally undertake to arrange for and manage my care during any illness which I may suffer, whether that care is provided in a home or in a medical or nursing institution, I authorize advanced lump-sum compensation or hourly compensation to that care manager, even if said care manager is my agent appointed hereunder or pursuant to Durable Power of Attorney for Health Care.

## **(8) Payment for Care or Assistance In Home.**

I prefer to remain at home, despite any worsening medical condition. Should I need assistance with day-to-day tasks or direct care, I authorize my agent to use my income and savings to pay for home services or care, whether provided by family members, friends, or others in the business of providing such services. Should any agent, family member, or friend provide care or services for me at home when I am in need of help, including my agent, then my agent shall compensate that individual at the current fair market rate for the in-home services being provided.

## **(9) Alter Estate Plan.**

My agent is authorized to change previously appointed beneficiaries on my assets (including but not limited to Transfer on Death Instruments, Totten trusts, and beneficiary-designated accounts). My agent shall have the power to sever joint tenancy assets and accounts.

## **B. LIMITATIONS.**

### **(1) Powers Not Granted.**

My agents shall not have the power to use my assets to pay for my agent's legal obligations. My agent shall be prohibited from: (a) appointing, assigning, or designating any of my assets, interests, or rights directly or indirectly to himself/herself, his/her estate, his/her creditors, or creditors of his/her estate (except as authorized in this instrument); (b) using my assets to discharge or secure any of his/her obligations, including any obligation of support which he/she may owe to others; (c) exercising any powers as trustee; (d) exercising any incident of ownership over any life insurance policy that I own which insured the life of my agent; and (e) revoking a will on my behalf or amending my will or codicil.

# UNOFFICIAL COPY

## (2) Waiver of Right to Trial.

I do not grant my agent(s) the power to waive my rights to have any dispute settled in a court of law. In particular, I do not grant my agent(s) the power to consent to any compulsory arbitration agreement on my behalf. My agent(s) shall not have the power to agree to any contractual provisions, including but not limited to contractual provisions for indemnification and/or hold harmless clauses, which in any way limits my legal rights and any such provision shall be deemed null and void even if the facility refuses to strike or remove such language from their contract. Refusal to strike or remove such language from a contract for services shall not bar or inhibit my admission to any facility which is consistent with both Illinois and Federal laws preserving patient rights. This does not, however, preclude alternative dispute resolution processes such as non-binding mediation.

## C. DELEGATION.

My agent shall have the right by written instrument to delegate any or all of the foregoing powers involving discretionary decision-making to any one of my appointed successor agent(s) or a licensed attorney or certified public accountant whom my agent may select, but such delegation may be amended or revoked by any agent (including any successor) named by me who is acting under this power of attorney at the time of reference.

## D. COMPENSATION.

My agent shall be entitled to reasonable compensation for services rendered, as agent under this power of attorney, and shall be entitled to reimbursement for any expenses incurred.

## E. DURATION.

This power of attorney shall become effective as of today, and shall terminate upon my death, or upon my earlier revocation of this instrument.

## F. NOTICE TO AGENT.

The Notice to Agent is incorporated by reference and included as part of this form.



# UNOFFICIAL COPY

## NOTICE TO AGENT

**WHEN YOU ACCEPT THE AUTHORITY GRANTED UNDER THIS POWER OF ATTORNEY A SPECIAL LEGAL RELATIONSHIP, KNOWN AS AGENCY, IS CREATED BETWEEN YOU AND THE PRINCIPAL. AGENCY IMPOSES UPON YOU DUTIES THAT CONTINUE UNTIL YOU RESIGN OR THE POWER OF ATTORNEY IS TERMINATED OR REVOKED.**

### **AS AGENT YOU MUST:**

1. Do what you know the principal reasonably expects you to do with the principal's property;
2. Act in good faith for the best interest of the principal, using due care, competence, and diligence;
3. Keep a complete and detailed record of all receipts, disbursements, and significant actions conducted for the principal;
4. Attempt to preserve the principal's estate plan, to extent actually known by the agent, if preserving the plan is consistent with the principal's best interest; and
5. Cooperate with a person who has authority to make health care decisions for the principal to carry out the principal's reasonable expectations to the extent actually in the principal's best interest.

### **AS AGENT YOU MUST NOT DO ANY OF THE FOLLOWING:**

1. Act so as to create a conflict of interest that is inconsistent with the other principals in this Notice to Agent;
2. Do any act beyond the authority granted in this power of attorney;
3. Commingle the principal's funds with your funds;
4. Borrow funds or other property from the principal, unless otherwise authorized;
5. Continue acting on behalf of the principal if you learn of any event that terminates this power of attorney or your authority under this power of attorney, such as the death of the principal, your legal separation from the principal, or the dissolution of your marriage to the principal.

This form does not authorize you to appear in court for the principal as an attorney-at-law or otherwise to engage in the practice of law unless you are a licensed attorney who is authorized to practice law in Illinois.

If you have special skills or expertise, you must use those special skills and expertise when acting for the principal. You must disclose your identity as an agent whenever you act for the principal by writing or printing the name of the principal and signing your own name "as Agent" in the following manner"

"Rodolfo Rivera by Andres Garibay as Agent"

The meaning of the powers granted to you is contained in Section 3-4 of the Illinois Power of Attorney Act, which is incorporated by reference into the body of the Durable Power of Attorney for Property document.

If you violate your duties as agent or act outside the authority granted to you, you may be liable for any damages, including attorney's fees and costs, caused by your violation.

If there is anything about this document or your duties that you do not understand, you should seek legal advice from an attorney.



# UNOFFICIAL COPY


## AGENT'S CERTIFICATION AND ACCEPTANCE OF AUTHORITY\*

I, Andres Garibay, certify that the attached is a true copy of a power of attorney naming the undersigned as agent or successor agent for Rodolfo Rivera.

I certify, to the best of my knowledge, the principal has the capacity to execute the power of attorney, is alive, and has not revoked the power of attorney; my powers as agent have not been altered or terminated; and that the power of attorney remains in full force and effect.

I accept appointment as agent under this power of attorney.

This certification and acceptance is made under penalty of perjury. \*

Signed: 

Dated: 6-14-18

Printed Name of Agent: Andres Garibay

Address of Agent: 10233 S Ave J  
Chicago, IL 60617

\*(NOTE: Perjury is defined in Section 32-2 of the Criminal Code of 1961, and is a Class 3 felony.)

Initials RR