

RCW 11.125.240 Agent—Authority over principal's property. (1)

An agent under a power of attorney may, subject to the requirements of RCW 11.125.140, and in particular RCW 11.125.140(2)(f), do the following on behalf of the principal or with the principal's property only if the power of attorney expressly grants the agent the authority and exercise of the authority is not otherwise prohibited by another agreement or instrument to which the authority or property is subject:

- (a) Create, amend, revoke, or terminate an inter vivos trust;
- (b) Make a gift;
- (c) Create or change rights of survivorship;
- (d) Create or change a beneficiary designation;
- (e) Delegate some but not all of the authority granted under the power of attorney, except as otherwise provided in RCW 11.125.110(1);
- (f) Waive the principal's right to be a beneficiary of a joint and survivor annuity, including a survivor benefit under a retirement plan;
- (g) Exercise fiduciary powers that the principal has authority to delegate;
- (h) Exercise any power of appointment in favor of anyone other than the principal;
- (i) Create, amend, or revoke a community property agreement;
- (j) Cause a trustee to make distributions of property held in trust under the same conditions that the principal could;
- (k) Make any other provisions for nonprobate transfer at death contained in nontestamentary instruments described in RCW 11.02.091;
- (1) Make health care decisions for the principal, or give informed consent to health care decisions on the principal's behalf.
- (2) Notwithstanding the provisions of subsection (1)(a) of this section, an agent may, even in the absence of a specific grant of authority, make transfers of property to any trust that benefits the principal alone and does not have dispositive provisions that are different from those that would have governed the property had it not been transferred into such trust.
- (3) Notwithstanding the provisions of subsection (1)(b) of this section, an agent may, even in the absence of a specific grant of authority, make any transfer of resources not prohibited under chapter 74.09 RCW when the transfer is for the purpose of qualifying the principal for medical assistance or the limited casualty program for the medically needy.
- (4) Notwithstanding a grant of authority to do an act described in subsection (1) of this section, unless the power of attorney otherwise provides, an agent that is not an ancestor, spouse, state registered domestic partner, or descendant of the principal, may not exercise authority under a power of attorney to create in the agent, or in an individual to whom the agent owes a legal obligation of support, an interest in the principal's property, whether by gift, right of survivorship, beneficiary designation, disclaimer, or otherwise.
- (5) Unless the power of attorney otherwise provides, a grant of authority to make a gift is subject to RCW 11.125.390.
- (6) Subject to subsections (1) through (5) of this section, if the subjects over which authority is granted in a power of attorney are similar or overlap, the broadest authority controls.
- (7) Authority granted in a power of attorney is exercisable with respect to property that the principal has when the power of attorney is executed or acquires later, whether or not the property is located

in this state and whether or not the authority is exercised or the power of attorney is executed in this state.

(8) An act performed by an agent pursuant to a power of attorney has the same effect and inures to the benefit of and binds the principal and the principal's successors in interest as if the principal had performed the act. [2016 c 209 § 201.]