INCAPACITY SET — Durable Power of Attorney, Healthcare Directive, and HIPAA Authorization

Brand: AnchorPointTrusts

Product Tier: $2,500 document-preparation package

Classification: DRAFT — Layer 2, for Layer 3 attorney-council review

Companion to: base-instrument-revocable.md / base-instrument-irrevocable.md (the "Trust Agreement"); certificate-of-trust.md; funding-guide.md; situs-state addendum module (execution formalities)

Governing anchor: State-neutral default — each document governs under the situs state's POA, advance-directive, and HIPAA statutes; the addendum module supplies per-state execution formalities

Purpose in kit: A living trust does not cover incapacity by itself. This module is the incapacity layer: one financial authority, one healthcare authority, one privacy release. It is one module with three separate documents, each with its own signature block and its own execution formalities.

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Operator language only. These documents describe who may act, when, and within what limits. They do not state tax outcomes, tax status, or tax objectives.
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MODULE OVERVIEW (plain language)

#	Document	What it does	What it does NOT do
1	Durable Power of Attorney (DPOA)	Lets your named Agent handle money and property for you if you cannot	Does not give the Agent power over trust property already managed by the Trustee
2	Healthcare Directive	States your treatment wishes and names a Healthcare Agent to decide if you cannot	Does not give the Healthcare Agent any power over money
3	HIPAA Authorization	Lets the people you name see your medical information under federal privacy law	Does not authorize any medical decision by itself

Trust interface. Assets titled in the Trust are managed by the Trustee under the Trust Agreement — no POA needed for those. This module covers everything else: assets outside the Trust, employer benefits, retirement-account elections, and the financial paperwork that comes with incapacity. A note on the three incapacity standards: the POA (one physician's certification), the Healthcare Directive (attending-physician determination), and the Trust Agreement's Section 14-C.1 (two physicians' certifications or a court order) each use a different trigger on purpose — money moves fast, medical decisions need bedside judgment, and trustee succession carries the highest stakes. These are deliberately distinct, not drift.

DOCUMENT 1 — DURABLE POWER OF ATTORNEY

Preamble

This Durable Power of Attorney (this "POA") is made on _____ by _____ (the "Principal").

Section 1 — Nomination of Agent

I name the following as my Attorney-in-Fact (my "Agent"), to serve in the order listed:

1. _____ (Primary Agent)
2. _____ (Alternate Agent)

Section 2 — Durability

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This POA is durable. It is not terminated by my subsequent incapacity or disability. It is effective on the date I sign it and remains effective until I revoke it or I die. [SELECT: immediate vs. springing — populate per client selection and situs statute, then strip the selector:] [SELECT: (a) This POA is effective immediately upon execution. or (b) This POA becomes effective upon my incapacity, determined in accordance with Section 2a.]

Section 2a — Incapacity Determination (springing form only). For purposes of this POA, I am incapacitated when a licensed physician certifies in writing that I am unable to manage my financial affairs. [ATTORNEY-CONFIRM: confirm per served state whether springing POAs remain a valid mechanism and what incapacity standard each state's POA statute permits — some states discourage springing forms; counsel to confirm before assembly. NOTE: this standard is deliberately lighter than the Trust Agreement's — the Trust's Section 14-C.1 requires certifications from two licensed physicians (or a court order) before the successor trustee takes over; this POA needs only one so your Agent can act quickly. The two standards are intentionally different, not drift.]
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Section 3 — Powers Granted

My Agent may exercise each of the following powers on my behalf, subject to any limits stated in this POA and to the applicable law of the situs state:

(a) real property transactions (but not the transfer of my principal residence to a trust without my express written direction — see Section 4);

(b) tangible personal property transactions;

(c) stock, bond, and other security transactions;

(d) commodity and option transactions;

(e) banking and other financial institution transactions;

(f) business operating transactions;

(g) insurance and annuity transactions;

(h) estate, trust, and other beneficiary-transaction actions;

(i) claims and litigation;

(j) personal and family maintenance;

(k) benefits from governmental programs or civil or military service, including Medicare and Medicaid claims and appeals; note: Social Security retirement and disability benefits are not managed through a POA — they require the SSA's own representative-payee appointment, which your Agent applies for through SSA;

(l) retirement-plan and tax elections and filings;

(m) retirement-plan contributions;

(n) records, reports, and statements.

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Uniform-statute note. The powers above track the Uniform Power of Attorney Act (UPOAA) category list as the state-neutral default. [CITATION-NEEDED: confirm per served state whether the UPOAA power list is adopted verbatim, modified, or replaced by a different enumeration — counsel to confirm per state against the official legislative source before assembly.]
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Section 4 — Limits and Exclusions

My Agent may not:

(a) transfer any of my real property into a trust without my express written direction given while I have capacity;

(b) make a gift of my property, except to the extent and under the conditions stated in the Gift Rider, if executed;

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(c) change the beneficiary of any retirement account, insurance policy, or annuity [ATTORNEY-CONFIRM: strategy verify — confirm with counsel whether to permit beneficiary-designation changes; designations interact with the trust plan and tax status];
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(d) exercise any power that my Agent could not lawfully delegate to a trustee;

(e) create, amend, revoke, or terminate any trust or any power of appointment, except as expressly permitted by the situs state's POA statute;

(f) exercise any right I hold in my capacity as Settlor of the Trust (revocation, amendment, or appointment powers under the Trust Agreement are exercised only as provided in the Trust Agreement itself).

Section 5 — Gift Rider (optional; default OFF)

[DRAFTING NOTE: the Gift Rider instrument itself is future scope, not shipped in the $2,500 package — if a client elects it, counsel drafts a standalone rider; this section exists only to flag the election point.]

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[ATTORNEY-CONFIRM: gift powers are the highest-abuse-risk clause in a POA. If the client elects a Gift Rider, counsel must confirm the situs state's express-gift-authority requirement and any witness/notarization overlay for it. Default: omitted from the $2,500 package.]
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Section 6 — Durability, Revocation, and Termination

Revocation. I may revoke this POA at any time by a written revocation delivered to my Agent or by any other act evidencing my intent to revoke as permitted by situs-state law.

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Termination. This POA terminates on the earliest of: (a) my death; (b) my written revocation; or (c) the resignation or removal of my Agent and every named successor. [CITATION-NEEDED: confirm per served state the statutory termination events — including whether a Principal's divorce automatically revokes an ex-spouse Agent's authority, and any other statute-provided termination this list must add — counsel to confirm per state before assembly.]
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Section 7 — Agent Duties and Reliance

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My Agent owes me the fiduciary duties provided by the situs state's POA statute, and shall act in my best interest, keep my property separate from the Agent's, and keep records of all receipts and disbursements. A third party who accepts this POA and acts in reliance on it in good faith, and who does not have actual knowledge of its termination, may rely on it as fully as if my Agent were acting for me in person. [CITATION-NEEDED: confirm per served state whether the third-party reliance and acceptance provisions of the UPOAA (or equivalent) are adopted, and whether a state-specific acceptance form is required (e.g., agent certification form) — counsel to confirm per state before assembly.]
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Section 8 — Governing Law

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This POA is governed by the law of the State of _____ [FILL IN: Settlor's domicile state, validated to equal the situs state at assembly].
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Signature Block — Document 1

PRINCIPAL:

_____

Principal Name (signature)

_____

Principal Name (printed)

Date: _____

WITNESSES (if required by situs state — see PER-STATE table):

Witness 1: _____ (printed name) Address: _____

Witness 2: _____ (printed name) Address: _____

ACKNOWLEDGMENT:

State of _____ County of _____

On this _____ day of _____, 20_____, before me, the undersigned authority, personally appeared _____ (the "Principal"), proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument, and acknowledged that he/she executed the same.

_____

Notary Public

My Commission Expires: _____

Agent Acceptance

Each named Agent signs below. An Agent who has not signed the acceptance may not act under this Power of Attorney.

I, _____, accept the office of Agent (Attorney-in-Fact) under this Power of Attorney and acknowledge my fiduciary duties to the Principal, including the duty to act in the Principal's best interest, to keep the Principal's property separate from my own, and to keep accurate records of all actions taken as Agent.

_____

Agent Signature (Primary) Date: _____

I, _____, accept the office of Agent (Attorney-in-Fact) under this Power of Attorney and acknowledge my fiduciary duties to the Principal.

_____

Agent Signature (Alternate) Date: _____

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[ATTORNEY-CONFIRM: confirm per served state whether the Agent acceptance is a statutory element of a valid POA (UPOAA-style statutes), and whether the acceptance must be notarized separately — counsel to confirm per state before assembly.]
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Exhibit — Physician's Certification of Incapacity (for the springing form)

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[PER-STATE FLAG: attach this exhibit only when the Principal selected a springing effective date. A certification in hand is what lets a bank honor Section 2a at the counter; without it, expect refusal.]
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PHYSICIAN'S CERTIFICATION OF INCAPACITY

I, _____, a licensed physician, certify that I have personally examined _____ (the "Principal") and that, in my medical opinion, the Principal is incapacitated within the meaning of this Power of Attorney and cannot manage the Principal's property and financial affairs.

Date of examination: _____

Basis of my opinion: _____

_____

Physician Signature Printed Name License No. _____

State of _____ County of _____

Subscribed and sworn to before me on this _____ day of _____, 20_____.

_____

Notary Public

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[ATTORNEY-CONFIRM: confirm per served state whether one or two physician certifications are required for a springing POA to take effect, and any statutory certification form — counsel to confirm per state before assembly.]
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[ATTORNEY-CONFIRM: confirm per served state whether the POA requires notarization, witnesses, both, or neither, and whether any state-specific POA form or statutory wording is mandatory — counsel to confirm per state before assembly.]
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DOCUMENT 2 — ADVANCE HEALTHCARE DIRECTIVE

Preamble

This Advance Healthcare Directive (this "Directive") is made on _____ by _____ (the "Principal").

Section 1 — Healthcare Agent Nomination

I nominate the following as my Healthcare Agent (my "Agent"), to make healthcare decisions for me if I am unable to do so, in the order listed:

1. _____ (Primary Healthcare Agent)
2. _____ (Alternate Healthcare Agent)

My Agent has authority to consent to, refuse, or withdraw any type of medical care, treatment, service, or procedure, and to make anatomical-gift, autopsy, and body-disposition decisions as permitted by situs-state law. My Agent's authority becomes effective when my attending physician determines that I have lost decision-making capacity.

Section 2 — Treatment Preferences

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End-of-life care. If I have a terminal condition from which I am expected to die within a relatively short time, or I am permanently unconscious, I direct that: [SELECT — populate per client's intake selections, then strip the selector:] [SELECT: (a) life-sustaining treatment shall NOT be provided, including artificial nutrition and hydration, if it only prolongs the dying process; (b) life-sustaining treatment shall be provided, including artificial nutrition and hydration, unless it is futile; (c) my Agent shall decide based on my Agent's knowledge of my wishes.]
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Pain management. I direct that I receive palliative care and pain relief adequate to keep me comfortable, even if it may hasten my death.

Statement of intent. These preferences are my instructions about the kind of medical treatment I want or do not want. They are not statements of tax outcome or financial consequence.

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[CITATION-NEEDED: confirm per served state the statutory advance-directive instrument name (e.g., "advance directive," "healthcare proxy," "durable power of attorney for health care," "living will"), whether a state-prescribed form must be used, and whether nutrition/hydration refusals require specific wording — counsel to confirm per state before assembly.]
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Section 3 — Limitations

No part of this Directive permits the intentional hastening of death, assisted suicide, or euthanasia, and nothing in it waives any protection provided by situs-state law. My Agent may not direct treatment inconsistent with this Directive.

Section 4 — HIPAA Interface

My Healthcare Agent is an authorized recipient of my protected health information for purposes of making healthcare decisions, and this Directive incorporates the HIPAA Authorization in Document 3 for that purpose.

Signature Block — Document 2

PRINCIPAL:

_____

Principal Name (signature)

Date: _____

WITNESSES (count and eligibility per situs state — see PER-STATE table):

Witness 1: _____ (printed name) Address: _____

Witness 2: _____ (printed name) Address: _____

ACKNOWLEDGMENT:

State of _____ County of _____

On this _____ day of _____, 20_____, before me, the undersigned authority, personally appeared _____ (the "Principal"), proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument, and acknowledged that he/she executed the same.

_____

Notary Public

My Commission Expires: _____

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[ATTORNEY-CONFIRM: confirm per served state the witness count, eligibility rules (e.g., not the Agent, not a healthcare-provider employee, not related by blood/marriage), and whether notarization is required, recommended, or prohibited — the witness rules for healthcare directives are stricter and more state-variable than for POAs. Counsel to confirm per state before assembly.]
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DOCUMENT 3 — HIPAA AUTHORIZATION

Preamble

This Authorization for Release of Protected Health Information (this "Authorization") is made on _____ by _____ (the "Patient").

Section 1 — Persons Authorized to Receive Information

I authorize the following persons to receive my protected health information (as defined by the federal privacy standards) from any physician, healthcare provider, hospital, clinic, pharmacy, health plan, or health-information custodian:

1. _____ (Primary Recipient — enter your Health Care Agent's name here so the three documents interlock)
2. _____ (Alternate Recipient — enter your Alternate Agent's name, or anyone else you choose)

Section 2 — Scope of Information

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The information covered includes: all medical records, diagnoses, treatment plans, laboratory results, imaging reports, medication lists, billing records, and communications with healthcare providers, including mental-health records to the extent permitted by law. [ATTORNEY-CONFIRM: confirm per served state and provider practice whether mental-health, substance-abuse, and HIV-related records require a separate or more specific authorization — federal rules give special protection to certain categories; counsel to confirm before assembly.]
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Section 3 — Purpose

The purpose of this release is to enable the recipients to participate in my healthcare decisions, to assist my Agent under Document 1 and Document 2, and to serve as Trustee or successor Trustee of my Trust in performing fiduciary duties during any period of my incapacity.

Section 4 — Duration and Revocation

This Authorization remains in effect until my death or until I revoke it in writing, whichever occurs first. I may revoke it at any time by written notice to any healthcare provider that has relied on it, except to the extent a provider has already taken action in reliance on it. I understand that information disclosed under this Authorization may be subject to redisclosure by the recipient and may no longer be protected by the federal privacy standards.

Signature Block — Document 3

PATIENT:

_____

Patient Name (signature)

Date: _____

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[ATTORNEY-CONFIRM: confirm whether the situs state requires notarization or witnesses for a HIPAA authorization — most states do not; confirm before assembly. The federal model authorization elements (description of information, persons authorized, purpose, expiration, revocation rights, redisclosure warning, signature) are reflected in Sections 1–4 above.]
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PER-STATE FORMALITY NOTES (counsel worklist)

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Verified-cite pattern (mirrors certificate-of-trust.md). Every formality question below is a question, not a claim. When counsel confirms a statute against the official legislative source, replace the [CITATION-NEEDED] flag with the citation and a VERIFIED stamp in the pattern used by the certificate-of-trust per-state block: [CITATION VERIFIED YYYY-MM-DD against official source: <url> — one-line summary]. Do not write a citation without the stamp; a bare cite is treated as unverified. The situs-state addendum module governs anything this table flags.
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Document	Formality question	Citation status

DPOA — all served states	Is notarization required for POA validity, and does the state require a statutory POA form, notice, or agent-acceptance signature?	[CITATION-NEEDED: confirm per state the POA execution requirements (notarization, witnesses, statutory form, agent signature/acceptance)]
DPOA — all served states	Does the state adopt the UPOAA power list, and are any powers excluded or require express reference?	[CITATION-NEEDED: confirm per state whether the UPOAA enumeration is adopted and which powers require express authorization]
DPOA — community-property states	Any spousal consent or community-property overlay for agent authority over community assets?	[CITATION-NEEDED: confirm per CP state whether agent authority over community property requires spousal acknowledgment]
DPOA — all served states	Does the state provide statutory protection for third parties who accept a POA (reliance, refusal rules, agent certification form)?	[CITATION-NEEDED: confirm per state the third-party acceptance statute and any mandatory agent-certification wording]
Healthcare Directive — all served states	What is the state's directive instrument name, required form, witness count, and witness eligibility rules?	[CITATION-NEEDED: confirm per state the directive instrument requirements, witness eligibility exclusions (agent/provider/relative), and any state-prescribed form]
Healthcare Directive — all served states	Is notarization required, recommended, or prohibited? Are there separate statutory parts (appointment + living will) that must be separately signed?	[CITATION-NEEDED: confirm per state whether the appointment and instruction portions require separate execution and whether notarization is part of validity]
HIPAA — all served states	Does the state require any state-law privacy authorization in addition to the federal HIPAA authorization (state-law privacy statutes can be stricter than HIPAA)?	[CITATION-NEEDED: confirm per state whether state privacy statutes require additional authorization language beyond the federal model elements]
All three — non-UTC states	Do non-UTC states among the served states impose additional execution or content requirements?	[CITATION-NEEDED: confirm non-UTC states' POA/directive statutes against the Track C 51-state matrix before assembly]
All three — Louisiana	Not a served state. No LA incapacity documents are produced, ever.	—

Assembly rule: the notes above are counsel infrastructure; strip the whole table before client assembly and let the situs addendum module carry anything client-facing.

WHAT YOU MUST DO

1. Name your Agent and your alternate in Document 1 — the person who handles money and property if you cannot. [REQUIRED]
2. Choose immediate or springing for the POA effective date. [REQUIRED]

3. Name your Healthcare Agent and alternate in Document 2 — a different person is allowed; it does not have to be the same Agent. [REQUIRED]

4. Check your treatment preferences in Document 2, Section 2. [REQUIRED]

5. Name the people who may see your medical records in Document 3. [REQUIRED]

6. Sign each of the three documents separately — they are three separate legal instruments, each with its own signature block. Do not sign only once. [REQUIRED]

7. Follow your state's signing rules — the addendum module for your state states who must witness and whether a notary is needed for each document. [REQUIRED]

8. Give copies to your Agent, your Healthcare Agent, your doctors, and your hospital — a directive nobody has is a directive that fails. [REQUIRED]

9. Do NOT use these documents for trust assets — the Trustee manages trust property under the Trust Agreement; these documents cover everything else. [—]

10. Review all three documents after any major life change (marriage, divorce, death of an Agent, move to another state). [—]

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CRITICAL — INCAPACITY WARNING: Without these documents, your family may need a court-appointed
guardian or conservator to act for you — a public, slow, expensive proceeding. A trust alone does not
prevent this for assets outside the trust. Sign all three documents BEFORE they are needed.
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After you sign: store the original POA with the Trust records; keep the Directive accessible to your Agent and doctors; keep a copy of the HIPAA Authorization with both.

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Why (for your records): The citations in the per-state notes above explain the legal authority for
each formality once counsel confirms them. The "WHAT YOU MUST DO" section above is the only part you
need to follow day-to-day.

This is a DRAFT document prepared by AnchorPointTrusts for attorney-council review. It does not
constitute legal advice. All statute citations should be verified by counsel before use in
client-facing documents. Louisiana is not served as a situs state.
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2. AnchorPointTrusts does not provide legal or tax advice. Our documents are prepared as templates that require customization for your specific circumstances.

3. These documents were prepared using extensive research and professional resources, including review of statutory authorities and published trust-form libraries. They are not a substitute for advice from a licensed attorney who can evaluate your specific situation. The preparer is not practicing law and this document does not constitute the practice of law.

4. The terms "agent," "principal," "durable," "healthcare agent," and "protected health information" have specific legal meanings under state and federal law. This template may not be appropriate for your situation.

5. Your individual situation should be evaluated by a licensed attorney before you rely on this document.

6. Document preparation services are not the same as attorney-drafted documents.

7. Some statutory references have been verified against official legislative sources; none are verified for your specific circumstances. Confirm all citations with your attorney before use.

8. If you believe this document creates an attorney-client relationship, it does not. It is a self-help document-preparation product.

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