

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1358 Session of
2010

INTRODUCED BY GREENLEAF, TARTAGLIONE, ALLOWAY, O'PAKE, BAKER AND
WASHINGTON, MAY 7, 2010

REFERRED TO JUDICIARY, MAY 7, 2010

AN ACT

1 Amending Title 20 (Decedents, Estates and Fiduciaries) of the
2 Pennsylvania Consolidated Statutes, in health care, further
3 providing for definitions, for authority of health care agent
4 and for relation of health care agent to court-appointed
5 guardian and other agents; in powers of attorney, further
6 providing for general provisions, for special rules for
7 gifts, for form of power of attorney, for implementation of
8 power of attorney, for durable powers of attorney and for
9 account; and providing for investigation of financial abuse
10 and mismanagement, for jurisdiction and venue and for
11 principles of law and equity.

12 The General Assembly of the Commonwealth of Pennsylvania
13 hereby enacts as follows:

14 Section 1. The definition of "health care decision" in
15 section 5422 of Title 20 of the Pennsylvania Consolidated
16 Statutes is amended to read:

17 § 5422. Definitions.

18 The following words and phrases when used in this chapter
19 shall have the meanings given to them in this section unless the
20 context clearly indicates otherwise:

21 * * *

22 "Health care decision." A decision regarding an individual's

1 health care, including, but not limited to, the following:

2 (1) Selection and discharge of a health care provider.

3 (2) Approval or disapproval of a diagnostic test,
4 surgical procedure or program of medication.

5 (3) Directions to initiate, continue, withhold or
6 withdraw all forms of life-sustaining treatment, including
7 instructions not to resuscitate.

8 (4) Admission to a medical, nursing, residential or
9 similar facility or entering into agreements for the
10 individual's care.

11 (5) After the death of the individual, making anatomical
12 gifts, disposing of the remains or consenting to autopsies.

13 * * *

14 Section 2. Sections 5456(a) and 5460(a) of Title 20 are
15 amended to read:

16 § 5456. Authority of health care agent.

17 (a) Extent of authority.--Except as expressly provided
18 otherwise in a health care power of attorney and subject to
19 subsection (b) and section 5460 (relating to relation of health
20 care agent to court-appointed guardian and other agents), a
21 health care agent shall have the authority to make any health
22 care decision and to exercise any right and power regarding the
23 principal's care, custody and health care treatment that the
24 principal could have made and exercised. The foregoing power
25 shall include the power to authorize admission to a medical,
26 nursing, residential or similar facility, or to enter into
27 agreements for the principal's care. The health care agent's
28 authority may extend beyond the principal's death to make
29 anatomical gifts, dispose of the remains and consent to
30 autopsies.

1 * * *

2 § 5460. Relation of health care agent to court-appointed
3 guardian and other agents.

4 (a) Accountability of health care agent.--If a principal who
5 has executed a health care power of attorney is later
6 adjudicated an incapacitated person and a guardian of the person
7 to make health care decisions is appointed by a court, the
8 health care agent is accountable to the guardian as well as to
9 the principal. [The guardian shall have the same power to revoke
10 or amend the appointment of a health care agent that the
11 principal would have if the principal were not incapacitated but
12 may not revoke or amend other instructions in an advance health
13 directive absent judicial authorization.] In its guardianship
14 order and determination of a person's incapacity, the court
15 shall determine the extent to which the health care agent's
16 authority to act remains in effect.

17 * * *

18 Section 3. Sections 5601(b), (d) and (e), 5601.2(a), (b),
19 (c), (d) and (e), 5602(a) and (c) and 5603(a), (d), (e), (h),
20 (k)(4), (p), (q) and (u.1) of Title 20 are amended and the
21 sections are amended by adding subsections to read:

22 § 5601. General provisions.

23 * * *

24 (b) Execution.--A power of attorney shall be dated and
25 signed [and dated] by the principal by signature or mark, or by
26 another individual on behalf of and at the direction of the
27 principal if the principal is unable to sign but specifically
28 directs another individual to sign the power of attorney. [If
29 the power of attorney is executed by mark or by another
30 individual, then it] The power of attorney shall be witnessed by

1 two individuals, each of whom is 18 years of age or older. A
2 witness shall not be an agent appointed in the power of attorney
3 or the individual who signed the power of attorney on behalf of
4 and at the direction of the principal.

5 * * *

6 (d) Acknowledgment executed by agent.--An agent shall have
7 no authority to act as agent under the power of attorney unless
8 the agent has first executed and affixed to the power of
9 attorney an acknowledgment in substantially the following form:

10 I, , have read the attached power of attorney
11 and am the person identified as the agent for the principal. I
12 hereby acknowledge that in the absence of a specific provision
13 to the contrary in the power of attorney or in 20 Pa.C.S. when I
14 act as agent:

15 I shall exercise the powers for the benefit of the principal.

16 I shall keep the assets of the principal separate from my
17 assets.

18 I shall exercise reasonable caution and prudence.

19 I shall keep a full and accurate record of all actions,
20 receipts and disbursements on behalf of the principal.

21 I shall preserve the estate plan of the principal, including
22 the effect of intestacy if the principal does not have a will.

23 (Agent) (Date)

24 (e) Fiduciary relationship.--An agent acting under a power
25 of attorney has a fiduciary relationship with the principal. In
26 the absence of a specific provision to the contrary in the power
27 of attorney, the fiduciary relationship includes the duty to:

28 (1) Exercise the powers for the benefit of the
29 principal.

30 (2) Keep separate the assets of the principal from those

of an agent.

(3) Exercise reasonable caution and prudence.

(4) Keep a full and accurate record of all actions, receipts and disbursements on behalf of the principal.

(5) Preserve the estate plan of the principal, including the effect of intestacy if the principal does not have a will.

* * *

(e.3) Equity and justice.--

(1) An agent and a recipient of a gift or other financial benefit, during the principal's life or at the principal's death, arising from the action of the agent is liable as equity and justice may require to the extent that the court determines that the action of the agent was inconsistent with:

(i) prudent estate planning or financial management for the principal; or

(ii) the known or probable intent of the principal with respect to the disposition of the principal's property.

(2) An agent who in good faith exercises reasonable caution and prudence shall not be personally liable.

* * *

§ 5601.2. Special rules for gifts and changes to principal's estate plan.

(a) General rule.--A principal may empower an agent to make a gift or make changes to the principal's estate plan in a power of attorney only as provided in this section. A power to make a gift or make changes to the principal's estate plan may not be inferred from a grant of another power or from a general grant

of authority to do anything that the principal could do, except to the extent that a principal expressly grants the agent the power under section 5603(u.3) (relating to implementation of power of attorney) authorizing personal and family maintenance.

(b) Limited gifts not requiring court approval.--Limited gifts that are authorized in compliance with this subsection do not require court approval. A principal may authorize an agent to make [a] limited [gift] gifts as defined under section 5603(a) (2) [(relating to implementation of power of attorney)] only by the inclusion of:

(1) the language quoted in section 5602(a) (1) (relating to form of power of attorney); or

(2) other language showing a similar intent on the part of the principal to empower the agent to make a limited gift.

(c) [Unlimited] Other gifts specifically authorized and not requiring court approval.--Other gifts that are specifically authorized in compliance with this subsection do not require court approval. A principal may authorize an agent to make any other gift only by specifically [providing for and defining the agent's authority in the power of attorney.] identifying:

(1) The donee, such as an individual, charity or other entity, whether by name, relationship, class or other description, except that the phrase "any donee" or other language showing a similar intent is not a specific identification.

(2) The property to be gifted or the amounts of cash gifts.

(c.1) Other actions not requiring court approval.--

(1) An agent may act without court approval if the action:

1 (i) Is otherwise authorized by the power of
2 attorney.

3 (ii) Maintains and is consistent with the
4 preservation of the principal's estate plan, including
5 the effect of intestacy if the principal does not have a
6 will.

7 (2) An action under this subsection may include:

8 (i) Placing property into joint names with rights of
9 survivorship.

10 (ii) The use of a designation such as "in trust
11 for," "payable on death" or "transfer on death."

12 (iii) The execution of a beneficiary designation.

13 (3) An action under this subsection may not be taken if
14 the interest of any beneficiary under the principal's
15 existing estate plan, including an intestacy if the principal
16 has no will, is prejudiced thereby. Either of the following
17 shall be considered a change in the principal's estate plan
18 and governed by subsection (c.2), which requires court
19 approval:

20 (i) An action that results in a beneficiary
21 receiving at the death of the principal an interest
22 outright and free of trust that would have passed in
23 trust at death under the principal's present estate plan.

24 (ii) An action that converts an outright gift at
25 death into one received in trust.

26 (c.2) Court-approved gifts and changes to estate plan.--

27 (1) Subject to paragraph (2), a principal may authorize
28 an agent to do the following on behalf of the principal or
29 with the principal's property:

30 (i) Make a gift other than a gift authorized under

1 subsection (b) or (c).

2 (ii) Create or change rights of survivorship.

3 (iii) Create or change a beneficiary designation.

4 (iv) Create an inter vivos trust, other than a trust
5 described in section 5603(b) or (c), or amend, revoke or
6 terminate an existing trust, but only to the extent that
7 the principal had previously retained or been granted
8 such powers.

9 (v) Waive the principal's right to be a beneficiary
10 of a joint and survivor annuity, including a survivor
11 benefit under a retirement plan.

12 (2) An agent may exercise a power under paragraph (1)
13 only if:

14 (i) The power of attorney expressly grants the agent
15 the specific authority to exercise the power.

16 (ii) The court having jurisdiction over the agent,
17 upon petition by the agent, approves the agent's proposed
18 action after finding that it is consistent with both:

19 (A) Prudent estate planning or financial
20 management for the principal.

21 (B) The known or probable intent of the
22 principal with respect to the disposition of the
23 principal's property.

24 (d) Nature of gifts.--In the absence of a specific provision
25 to the contrary in the power of attorney:

26 (1) A power to make a [limited] gift under subsection
27 (b) or (c) shall be construed to empower the agent to make a
28 gift to each donee either outright [or], in trust or to a
29 tuition savings account or prepaid tuition plan as defined in
30 section 529 of the Internal Revenue Code of 1986 (Public Law

1 99-514, 26 U.S.C. § 529).

2 (2) In the case of any gift to a minor, that gift may be
3 made in trust or in accordance with Chapter 53 (relating to
4 Pennsylvania Uniform Transfers to Minors Act) or section 5155
5 (relating to order of court).

6 (3) In the case of any gift made in trust, the agent may
7 execute a deed of trust for such purpose, designating one or
8 more persons, including the agent, as original or successor
9 trustees, or may make an addition to an existing trust.

10 (4) In making any gift, the agent need not treat the
11 donees equally or proportionately and may entirely exclude
12 one or more permissible donees.

13 (5) The pattern followed on the occasion of any gift
14 need not be followed on the occasion of any other gift.

15 [(e) Equity.--An agent and the donee of a gift shall be
16 liable as equity and justice may require to the extent that, as
17 determined by the court, a gift made by the agent is
18 inconsistent with prudent estate planning or financial
19 management for the principal or with the known or probable
20 intent of the principal with respect to disposition of the
21 estate.]

22 * * *

23 (g) Court proceeding.--When court approval is required under
24 subsection (c.2):

25 (1) The burden of proof, by clear and convincing
26 evidence, shall be on the agent.

27 (2) Notice of the petition and hearing shall be given in
28 the manner as the court shall direct to:

29 (i) All persons who are sui juris and would be
30 entitled to share in the principal's estate if the

1 principal died intestate at that time.

2 (ii) Any person known to the agent who would be
3 prejudiced by the proposed action.

4 (iii) Such other parties as the court may direct.

5 (3) The hearing may be closed to the public unless the
6 principal or the principal's counsel objects.

7 (4) The court sua sponte or upon request of the agent or
8 others may direct that some or all of the pleadings or
9 documents related to the petition and hearing be sealed or
10 redacted in the manner and to the extent that the court deems
11 appropriate.

12 § 5602. Form of power of attorney.

13 (a) Specification of powers.--A principal may, by inclusion
14 of the language quoted in any of the following paragraphs or by
15 inclusion of other language showing a similar intent on the part
16 of the principal, empower an agent to do any or all of the
17 following, each of which is defined in section 5603 (relating to
18 implementation of power of attorney):

19 (1) "To make limited gifts."

20 (2) "To create a trust for my benefit."

21 (3) "To make additions to an existing trust for my
22 benefit."

23 (4) "To claim an elective share of the estate of my
24 deceased spouse."

25 (5) "To disclaim any interest in property."

26 (6) "To renounce fiduciary positions."

27 (7) "To withdraw and receive the income or corpus of a
28 trust."

29 [(8) "To authorize my admission to a medical, nursing,
30 residential or similar facility and to enter into agreements

1 for my care."

2 (9) "To authorize medical and surgical procedures."]

3 (10) "To engage in real property transactions."

4 (11) "To engage in tangible personal property
5 transactions."

6 (12) "To engage in stock, bond and other securities
7 transactions."

8 (13) "To engage in commodity and option transactions."

9 (14) "To engage in banking and financial transactions."

10 (15) "To borrow money."

11 (16) "To enter safe deposit boxes."

12 (17) "To engage in insurance and annuity transactions."

13 (18) "To engage in retirement plan transactions."

14 (19) "To handle interests in estates and trusts."

15 (20) "To pursue claims and litigation."

16 (21) "To receive government benefits."

17 (22) "To pursue tax matters."

18 [(23) "To make an anatomical gift of all or part of my
19 body."]

20 (24) "To operate a business or entity."

21 (25) "To provide for personal and family maintenance."

22 * * *

23 (c) Filing of power of attorney.--An originally executed
24 [copy of the] power of attorney may be filed with the clerk of
25 the orphans' court division of the court of common pleas in the
26 county in which the principal resides, and if it is
27 acknowledged, it may be recorded in the office for the recording
28 of deeds of the county of the principal's residence and of each
29 county in which real property to be affected by an exercise of
30 the power is located. The clerk of the orphans' court division

1 or any office for the recording of deeds with whom the power has
2 been filed, may, upon request, issue certified copies of the
3 power of attorney. Each such certified copy shall have the same
4 validity and the same force and effect as if it were the
5 original, and it may be filed of record in any other office of
6 this Commonwealth (including, without limitation, the clerk of
7 the orphans' court division or the office for the recording of
8 deeds) as if it were the original.

9 (d) Copy of power of attorney.--Except for the purpose of
10 filing under subsection (c), a photocopy or electronically
11 transmitted copy of an originally executed power of attorney has
12 the same effect as the original.

13 § 5603. Implementation of power of attorney.

14 (a) Power to make limited gifts.--

15 (2) A power "to make limited gifts" shall mean that the
16 agent may make only gifts for or on behalf of the principal
17 which are limited as follows:

18 (i) The class of permissible donees under this
19 paragraph shall consist solely of the principal's spouse,
20 issue and a spouse of the principal's issue (including
21 the agent if a member of any such class), or any of them.

22 (ii) During each calendar year, the gifts made to
23 any permissible donee, pursuant to such power, shall have
24 an aggregate value not in excess of, and shall be made in
25 such manner as to qualify in their entirety for, the
26 annual exclusion from the Federal gift tax permitted
27 under section 2503(b) of the Internal Revenue Code of
28 1986 (Public Law 99-514, 26 U.S.C. § 1 et seq.) for the
29 principal [and, if applicable, the principal's spouse]
30 or, if the principal's spouse agrees to consent to

splitting gifts under section 2513(a) of the Internal Revenue Code of 1986, in an amount per donee (other than the spouse) not to exceed twice the annual exclusion limit. The limits under this subparagraph may be exceeded if and to the extent the agent elects to equalize gifts among family units with each child of the principal and the child's descendants treated as a family unit.

(iv) In addition to the gifts authorized by subparagraphs (i) and (ii), a gift made pursuant to such power may be for the tuition or medical care of any permissible donee to the extent that the gift is excluded from the Federal gift tax under section 2503(e) of the Internal Revenue Code of 1986 as a qualified transfer.

(v) The agent may consent, pursuant to section 2513(a) of the Internal Revenue Code of 1986, to the splitting of gifts made by the principal's spouse to the principal's issue or a spouse of the principal's issue in any amount and to the splitting of gifts made by the principal's spouse to any other person in amounts not exceeding the aggregate annual gift tax exclusions for both spouses under section 2503(b) of the Internal Revenue Code of 1986.

* * *

(d) Power to claim an elective share.--A power "to claim an elective share of the estate of my deceased spouse" shall mean that the agent may elect to take against the will and conveyances of the principal's deceased spouse, disclaim any interest in property which the principal is required to disclaim as a result of such election, retain any property which the principal has the right to elect to retain, file petitions

1 pertaining to the election, including petitions to extend the
2 time for electing and petitions for orders, decrees and
3 judgments in accordance with section 2211(c) and (d) (relating
4 to determination of effect of election; enforcement), and take
5 all other actions which the agent deems appropriate in order to
6 effectuate the election: Provided, however, That the election
7 shall be made only upon the approval of the court having
8 jurisdiction of the principal's estate in accordance with
9 section 2206 (relating to right of election personal to
10 surviving spouse) in the case of a principal who [has been
11 adjudicated] is an incapacitated person, or upon the approval of
12 the court having jurisdiction of the deceased spouse's estate in
13 the case of a principal who [has not been adjudicated] is not an
14 incapacitated person.

15 (e) Power to disclaim any interest in property.--A power "to
16 disclaim any interest in property" shall mean that the agent may
17 release or disclaim any interest in property on behalf of the
18 principal in accordance with Chapter 62 (relating to
19 disclaimers) or section 6103 (relating to release or disclaimer
20 of powers or interests), provided that any disclaimer under
21 Chapter 62 shall be in accordance with the provisions of section
22 6202 (relating to disclaimers by fiduciaries or agents) in the
23 case of a principal who [shall have been adjudicated] is an
24 incapacitated person at the time of the execution of the
25 disclaimer.

26 * * *

27 [(h) Power to authorize admission to medical facility and
28 power to authorize medical procedures.--

29 (1) A power "to authorize my admission to a medical,
30 nursing, residential or similar facility, and to enter into

1 agreements for my care" shall mean that the agent may apply
2 for the admission of the principal to a medical, nursing,
3 residential or other similar facility, execute any consent or
4 admission forms required by such facility which are
5 consistent with this paragraph, and enter into agreements for
6 the care of the principal by such facility or elsewhere
7 during his lifetime or for such lesser period of time as the
8 agent may designate, including the retention of nurses for
9 the principal.

10 (2) A power "to authorize medical and surgical
11 procedures" shall mean that the agent may arrange for and
12 consent to medical, therapeutical and surgical procedures for
13 the principal, including the administration of drugs.]

14 * * *

15 (k) Power to engage in stock, bond and other securities
16 transactions.--A power to "engage in stock, bond and other
17 securities transactions" shall mean that the agent may:

18 * * *

19 (4) Join in any merger, reorganization, consolidation,
20 dissolution, liquidation, voting-trust plan or other
21 concerted action of security holders and make payments in
22 connection therewith.

23 * * *

24 (p) Power to engage in insurance and annuity transactions.--
25 A power to "engage in insurance and annuity transactions" shall
26 mean that the agent may:

27 (1) Purchase, continue, renew, convert or terminate any
28 type of insurance (including, but not limited to, life,
29 accident, health, disability or liability insurance) or
30 annuity and pay premiums and collect benefits and proceeds

1 under [insurance] these policies.

2 (2) Exercise nonforfeiture provisions under insurance
3 policies and annuity contracts.

4 (3) In general, exercise all powers with respect to
5 insurance and annuities that the principal could if present[;
6 however, the agent cannot designate himself beneficiary of a
7 life insurance policy unless the agent is the spouse, child,
8 grandchild, parent, brother or sister of the principal],
9 including the designation of a beneficiary, but only as
10 permitted under section 5601.2(c.1) and (c.2) (relating to
11 special rules for gifts and changes to principal's estate
12 plan).

13 (q) Power to engage in retirement plan transactions.--A
14 power to "engage in retirement plan transactions" shall mean
15 that the agent may contribute to, withdraw from and deposit
16 funds in any type of retirement plan (including, but not limited
17 to, any tax qualified or nonqualified pension, profit sharing,
18 stock bonus, employee savings and retirement plan, deferred
19 compensation plan or individual retirement account), select and
20 change payment options for the principal, make roll-over
21 contributions from any retirement plan to other retirement plans
22 and, in general, exercise all powers with respect to retirement
23 plans that the principal could if present, including the
24 designation of a beneficiary, but only as permitted under
25 section 5601.2(c.1) and (c.2).

26 * * *

27 [(u.1) Power to make anatomical gift.--A power "to make an
28 anatomical gift of all or part of my body" shall mean that the
29 agent may arrange and consent, either before or after the death
30 of the principal, to procedures to make an anatomical gift in

1 accordance with Chapter 86 (relating to anatomical gifts).]

2 (u.2) Power to operate a business or entity.--A power "to
3 operate a business or entity" shall mean that the agent may:

4 (1) Continue or participate in the operation of any
5 business or other entity in which the principal holds an
6 interest, whether alone or with others, by making and
7 implementing decisions regarding its financing, operations,
8 employees and all other matters pertinent to the business or
9 entity.

10 (2) Change the form of ownership of the business or
11 entity to a corporation, partnership, limited liability
12 company or other entity, and initiate or take part in a
13 corporate reorganization, including a merger, consolidation,
14 dissolution or other change in organizational form.

15 (3) Compensate an agent actively managing, supervising
16 or engaging in the operation of a business or entity, as
17 appropriate, from the principal's assets or from the business
18 or entity, provided the compensation is reasonably based upon
19 the actual responsibilities assumed and performed.

20 (4) In general, exercise all powers with respect to
21 operating a business or entity that the principal could if
22 present.

23 (u.3) Power to provide for personal and family
24 maintenance.--

25 (1) A power "to provide for personal and family
26 maintenance" shall mean that the agent may provide for the
27 health, education, maintenance and support, in order to
28 maintain the customary standard of living of the principal's
29 spouse and the following individuals, whether living when the
30 power of attorney is executed or later born:

1 (i) The principal's minor children.

2 (ii) Other individuals legally entitled to be
3 supported by the principal.

4 (iii) The individuals whom the principal has
5 customarily supported.

6 (2) In acting under this subsection, the agent shall:

7 (i) Take into account the long-term needs of the
8 principal.

9 (ii) Consider any independent means available to
10 those individuals apart from the support provided by the
11 principal.

12 (3) Authority with respect to personal and family
13 maintenance is in addition to and not limited by authority
14 that an agent may or may not have, or court approval that may
15 be necessary with respect to gifts under this chapter.

16 * * *

17 Section 4. Section 5604(c)(1) of Title 20 is amended,
18 subsection (c) is amended by adding a paragraph and the section
19 is amended by adding a subsection to read:

20 § 5604. Durable powers of attorney.

21 * * *

22 (c) Relation of agent to court-appointed guardian.--

23 (1) If, following execution of a durable power of
24 attorney, the principal [is adjudicated] becomes an
25 incapacitated person and a guardian is appointed for his
26 estate, the agent is accountable to the guardian as well as
27 to the principal. [The guardian shall have the same power to
28 revoke or amend the power of attorney that the principal
29 would have had if he were not an incapacitated person.]

30 * * *

1 (3) In its guardianship order and determination of a
2 person's incapacity, the court shall determine whether and
3 the extent to which the incapacitated person's durable power
4 of attorney remains in effect.

5 * * *

6 (d.1) Disclosure.--Except as otherwise provided in the power
7 of attorney, an agent is not required to disclose receipts,
8 disbursements or transactions conducted on behalf of the
9 principal unless:

10 (1) ordered by a court; or

11 (2) requested by:

12 (i) the principal;

13 (ii) the principal's guardian;

14 (iii) another fiduciary acting for the principal;

15 (iv) a governmental agency having authority to
16 protect the welfare of the principal as set forth in
17 subsection (d); or

18 (v) the personal representative or successor in
19 interest of the principal's estate, upon the death of the
20 principal.

21 * * *

22 Section 5. 5610 of Title 20 is amended to read:

23 § 5610. Account.

24 An agent shall file an account of his administration whenever
25 directed to do so by the court and may file an account at any
26 other time. All accounts shall be filed in the office of the
27 clerk in the county where the principal resides. The court may
28 assess the costs of the accounting proceeding as it deems
29 appropriate, including the costs of preparing and filing the
30 account.

1 Section 6. Title 20 is amended by adding sections to read:

2 § 5612. Investigation of financial abuse and mismanagement.

3 The court may order an investigation, appoint a guardian ad
4 litem, make a referral to an appropriate agency or take any
5 other appropriate action regarding allegations that a principal
6 is suffering from financial abuse or mismanagement by the
7 principal's agent under a power of attorney:

8 (1) upon petition by an appropriate party and a
9 reasonable showing of the financial abuse or mismanagement;
10 or

11 (2) after the court is otherwise informed of the
12 financial abuse or mismanagement.

13 § 5613. Jurisdiction and venue.

14 (a) County having venue.--Venue of any matter pertaining to
15 the exercise of a power by an agent acting under a power of
16 attorney as provided in this chapter shall be in the county in
17 which the principal is domiciled, a resident or residing in a
18 long-term care facility.

19 (b) Declining jurisdiction.--

20 (1) A court having jurisdiction may decline to exercise
21 jurisdiction if at any time it determines that a court of
22 another county or state is a more appropriate forum.

23 (2) If a court of this Commonwealth declines to exercise
24 jurisdiction, it shall either dismiss the proceeding or stay
25 the proceeding upon condition that a proceeding be promptly
26 commenced in another county or state. A court may impose any
27 other condition that it deems appropriate.

28 § 5614. Principles of law and equity.

29 Except as otherwise provided by this chapter or another
30 statute of this Commonwealth, common law and the principles of

1 equity supplement this chapter.

2 Section 7. This act shall apply as follows:

3 (1) Except as set forth in paragraph (2), this act shall
4 apply to all powers of attorney executed on or after the
5 effective date of this section.

6 (2) (i) Nothing in this act shall be construed to limit
7 the effectiveness of powers of attorney in effect prior
8 to the effective date of of this section.

9 (ii) Any provision in a power of attorney
10 incorporating by reference a power under 20 Pa.C.S. §
11 5602(a)(8), (9) or (23) prior to the repeal of 20 Pa.C.S.
12 § 5602(a)(8), (9) or (23) shall continue to be governed
13 by the respective paragraph of 20 Pa.C.S. § 5602(a) as if
14 no repeal occurred.

15 Section 8. This act shall take effect as follows:

16 (1) The following provisions shall take effect
17 immediately:

18 (i) This section.

19 (ii) The addition of 20 Pa.C.S. § 5601(e.3).

20 (iii) The repeal of 20 Pa.C.S. § 5601.2(e).

21 (2) The remainder of this act shall take effect in six
22 months.