
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2007 Session of
2014

INTRODUCED BY BIZZARRO, PASHINSKI, NEILSON, KOTIK, SCHLOSSBERG,
KORTZ, KINSEY, YOUNGBLOOD, THOMAS, SONNEY, DeLUCA, COHEN,
SWANGER, MCNEILL, READSHAW, SNYDER, FABRIZIO, WHITE, MATZIE,
PETRI, MURT, NEUMAN, W. KELLER, HAGGERTY, MUNDY, KULA,
DONATUCCI, D. MILLER, FARINA, CARROLL, FRANKEL AND GIBBONS,
JANUARY 30, 2014

REFERRED TO COMMITTEE ON JUDICIARY, JANUARY 30, 2014

AN ACT

1 Amending Title 20 (Decedents, Estates and Fiduciaries) of the
2 Pennsylvania Consolidated Statutes, further providing for
3 general provisions and for durable powers of attorney.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Sections 5601(d) and 5604(d) of Title 20 of the
7 Pennsylvania Consolidated Statutes are amended to read:

8 § 5601. General provisions.

9 * * *

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

14 I, _____, have read the attached power of
15 attorney and am the person identified as the agent for
16 the principal. I hereby acknowledge that in the absence

1 of a specific provision to the contrary in the power of
2 attorney or in 20 Pa.C.S. when I act as agent:

3 I shall exercise the powers for the benefit of the
4 principal.

5 I shall keep the assets of the principal separate
6 from my assets.

7 I shall exercise reasonable caution and prudence.

8 I shall keep a full and accurate record of all
9 actions, receipts and disbursements on behalf of the
10 principal.

11 Failure to comply with the requirements above could
12 result in the filing of criminal charges against me.

13
14

15 (Agent) (Date)

16 * * *

17 § 5604. Durable powers of attorney.

18 * * *

19 (d) Discovery of information and records regarding actions
20 of agent.--

21 (1) If the agency acting pursuant to the act of November
22 6, 1987 (P.L.381, No.79), known as the Older Adults
23 Protective Services Act, is denied access to records
24 necessary for the completion of a proper investigation of a
25 report or a client assessment and service plan or the
26 delivery of needed services in order to prevent further
27 abuse, neglect, exploitation or abandonment of the older
28 adult principal reported to be in need of protective
29 services, the agency may petition the court of common pleas
30 for an order requiring the appropriate access when either of

1 the following conditions applies:

2 (i) the older adult principal has provided written
3 consent for confidential records to be disclosed and the
4 agent denies access; [or]

5 (ii) the agency can demonstrate that the older adult
6 principal has denied or directed the agent to deny access
7 to the records because of incompetence, coercion,
8 extortion or justifiable fear of future abuse, neglect,
9 exploitation or abandonment[.]; or

10 (iii) the agency has a reasonable suspicion to
11 believe a crime has been committed and can demonstrate
12 that the older adult principal is mentally incapacitated.

13 (2) This petition may be filed in the county wherein the
14 agent resides or has his principal place of business or, if a
15 nonresident, in the county wherein the older adult principal
16 resides. The court, after reasonable notice to the agent and
17 to the older adult principal, may conduct a hearing on the
18 petition.

19 (3) Upon the failure of the agent to provide the
20 requested information, the court may make and enforce such
21 further orders.

22 (4) A determination to grant or deny an order, whether
23 in whole or in part, shall not be considered a finding
24 regarding the competence, capacity or impairment of the older
25 adult principal, nor shall the granting or denial of an order
26 preclude the availability of other remedies involving
27 protection of the person or estate of the older adult
28 principal or the rights and duties of the agent.

29 * * *

30 Section 2. This act shall take effect in 60 days.