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Changes to Powers of Attorney Law Now In Effect

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A properly drafted and executed Power of Attorney can offer untold protection and peace of mind when you or a loved one become incapacitated or need assistance in managing financial affairs.

Let's review what has changed as of January 1, 2015.



A Power of Attorney is one of the most important documents you can have. A properly drafted and executed Power of Attorney can offer untold protection and peace of mind when you or a loved one become incapacitated or need assistance in managing financial affairs. A valid Power of Attorney may also prevent the need for a guardianship, which can be a difficult process, both emotionally and financially.

Last October, we told you about changes to the Probate, Estates and Fiduciaries Code (20 Pa.C.S.), which is the statute governing Powers of Attorney in Pennsylvania. The updated statute, all sections of which became effective as of January 1, 2015, includes new requirements for a Power of Attorney to be considered valid, and clarification for parts of the statute which were previously unclear.

Previously, Section 5601 of Title 20 stated that a Power of Attorney must be signed and dated by the principal (the person making the Power of Attorney), which is still true. **The update stipulates a Power of Attorney must also be notarized and witnessed by two individuals who are age 18 or older.** The amendment to Section 5601 also expands the Notice section of a Power of Attorney to specifically inform the principal that an agent (the person acting on behalf of the principal) can give away all of the principal's property while the principal is alive, or substantially change how the principal's property will be distributed at their death. The corresponding Acknowledgment section requires that an agent confirm in writing that they will act in the principal's best interest.

The changes to Section 5601 also clarify the responsibilities of the agent, as well as setting forth specific protections provided by law when an agent is acting on behalf of a principal. The statute restricts those who can request an accounting of the agent's actions without a court order to the principal, or, at their, the principal's estate representative, along with a few select others. Certain powers that were previously considered as implicit within a Power of Attorney, such as changing beneficiary designations, now must be

explicitly stated within the Power of Attorney to be used. In addition, the power to make gifts has been more clearly defined.

Lastly, the changes to the statute clarify when a person or institution, such as a bank, may request more information before relying on a Power of Attorney.

Questions?

If you have questions regarding the recent changes to the Power of Attorney statute, or if you would like to review your current plan, contact any of our Estate Planning & Administration Attorneys.

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Elder Law Group; Estate Planning & Administration Group

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