

House Judiciary Committee
Senate Bill 851: Maryland General and Limited Power of Attorney Act - Alterations
March 29, 2023

On behalf of the National Association of Social Workers, Maryland Chapter (NASW-MD), we wish to express our support for Senate Bill 851 - Maryland General and Limited Power of Attorney Act – Alterations.

As social workers, we work with Marylanders who need governmental benefits to meet their medical and other care needs but have difficulty qualifying for those benefits without impoverishing the person in need of care or their family members. When an adult (the principal) executes a Power of Attorney, the principal may give the person named in the Power of Attorney (the agent) the authority to take the actions needed to qualify for the benefits. However, the current Power of Attorney forms do not allow principals to give agents authority to complete the financial transactions needed to qualify the principal for benefits while still protecting some assets. This bill would allow the principal to give the agent the power to transfer assets, create and or fund an irrevocable Funeral Trust, and set up and fund other trusts in order to qualify the principal for long term Medicaid while protecting assets for the family. The bill maintains the protections of the Maryland General and Limited Power of Attorney Act against financial exploitation of the principal by the agent. The bill also gives the agent the authority to obtain the principal's personal and financial information needed to qualify for governmental benefits, for example, five years of bank account records for long term Medicaid.

In addition, this bill allows the agent, if authorized by the principal, to create and fund a Special Needs Trust or an Achieving a Better Life Experience (ABLE) account for the principal or the principal's family or a designated beneficiary. A Special Needs Trust is very helpful to provide funds for an adult child with disabilities which are not counted as assets by Supplemental Security Income (SSI) or Medicaid but can be used to pay for goods or services not covered by governmental benefits. An ABLE account allows a payee for an SSI recipient to save funds for disability-related expenses of the beneficiary while they continue to receive SSI.

The amendments add clarity to the meaning of Power of Attorney for the principal and the agent, and give the agent the authority, with the principal's consent, to control tangible assets. In addition, the amendments allow gifting or property transfer to the agent only when the agent is a spouse or descendent of the principal, thus providing more protections against abuse by the agent.

Families are often under great stress as they struggle to qualify their loved ones for essential benefits to care for their needs, while still conserving funds to pay for the individual's other expenses and those of family members. Senate Bill 851 will make this process easier. This bill retains the protections of the principal from exploitation by the Power of Attorney agent and affords individuals and families many more tools to secure their health and welfare.

For these reasons, we urge you to vote yes on Senate Bill 851.

Respectfully,

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