



**Testimony of Jim O'Brien, AARP Volunteer Advocacy Chairman  
In support of H.B. 6774 (RAISED) AN ACT CONCERNING ADOPTION OF THE  
CONNECTICUT UNIFORM POWER OF ATTORNEY ACT  
February 25, 2015**

Good afternoon, Chairman Coleman, Chairman Tong, Ranking Members Kissel and Reimbas. I am Jim O'Brien, AARP advocacy volunteer chairman from Cheshire, CT. I am here today on behalf of AARP to voice our strong support for H.B. 6774, the Uniform Power of Attorney Act.

AARP is a nonpartisan social mission organization representing nearly 37 million members age 50+, and approximately 600,000 here in Connecticut. AARP fights for issues that matter most to families such as healthcare, family caregiving and consumer protections. We believe the protections outlined in H.B. 6774 will safeguard against abuse and promote autonomy and help prevent, detect, and redress Power of Attorney abuse.

Powers of Attorney are essential tools for delegating authority to others to handle financial matters in many situations. It is a legal document used by an individual (the principal) to name someone else (the agent) to make financial decisions and act on the principal's behalf. To be useful as an incapacity planning tool, a POA must give broad authority to the agent.

A Power of Attorney, whether general or durable, is private; there is not the same level of court oversight as there is for a guardianship or conservatorship appointment. State laws often are unclear about the duty owed by the agent to the principal. This combination of broad consent, lack of oversight, and unclear duties makes it possible for agents to misuse their authority.

The power of attorney has been called a "license to steal" and this misuse of authority is a form of financial exploitation. This concerns us greatly and that is why we think it's critical that state laws help prevent, detect and redress power of attorney abuse. Power of attorney abuse can take many forms, including:

- Forging the principal's signature on a power of attorney or making a fraudulent document;
- Spending the principal's money for the benefit of the agent;
- Making gifts when the power of attorney does not provide authority to do that; and
- Undermining the principal's estate plan by giving assets to unintended recipients.

However, the ability to legally represent the interests of an aging parent is enormously important. For many years, I have had and have used power of attorney for my mother. She granted this many years ago when we were planning her future, anticipating a time when she would not want to deal with fiscal matters. What we did not foresee was the absolute necessity having durable power of attorney would be in handling her affairs as dementia disabled her ability to comprehend even the most basic business transaction. Without having POA, I would have had to become her conservator in order to handle routine matters, such as closing her electric account, changing bank accounts, even getting 1099s sent to me rather than to where she used to live. My mother's intelligent, advanced planning has been critical, and the most important part of that planning has been to bestow power of attorney to a sister and me.

Additionally, a power of attorney will not be useful if third parties, such as financial institutions, refuse to honor an agent's directions. Third parties that refuse to honor a power of attorney because they believe the agent is misusing authority may help prevent exploitation of the principal. Sometimes, however, third parties refuse to honor the POA for less legitimate reasons, such as because it is old or from another state. H.B. 6774 strikes a balance; it sets clear standards for third party reliance but still allows good-faith detection of potential abuse from individuals such as bank tellers.

While the Act can't prevent bad actors from committing theft and other forms of abuse, it does set forth clear agent duties and prohibitions that will make civil actions and criminal prosecutions more effective. Highlights include provisions that:

- Contain mandatory and default duties that prohibit self-dealing and mandate preservation of the principal's estate plan;
- Makes clear that a power of attorney terminates when the principal dies;
- Set forth the powers an agent cannot exercise unless the power of attorney expressly authorizes such actions;
- Establish liability for agents who violate the power of attorney law;
- Address third-party acceptance of and reliance upon a power of attorney; and
- List circumstances under which a third party may legitimately refuse to accept a power of attorney and provide sanctions for unlawful refusals.

To date, seventeen states have enacted the Uniform Power of Attorney Act, and D.C. and Utah are considering it now. By enacting the UPOAA, Connecticut could strengthen its power of attorney law to better protect residents and benefit its businesses and courts. AARP asks for your supporting in curbing financial exploitation of elders by enacting H.B. 6774, the Uniform Power of Attorney Act. Thank you.

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