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Representative William Tong, Co-Chairperson
Judiciary Committee
Legislative Office Building
Room 2405
Hartford, Connecticut 06106-1591

February 17, 2015

Re: HB 6774, An Act Concerning Adoption of the Connecticut Uniform Power of Attorney Act

Dear Representative Tong:

I am an elder law attorney with 30 years of experience and have an office in Newington, Connecticut. I was a member of the Connecticut Bar Association's task force to reform Connecticut Conservatorship statutes which was accomplished in 2007. I am an adjunct Professor of Law at UConn Law School where I have taught Elder Law for more than a decade, and I have also taught as an adjunct Professor of Law at Western New England University Law School in its LLM Elder Law program. I am also the former Chair of the Elder Law Section of the Connecticut Bar Association. I am writing you to urge you to support HB 6774, An Act Concerning Adoption of the Connecticut Uniform Power of Attorney Act (the "UPOAA").

Powers of attorney allow an individual (the "principal") to name the person of the principal's choosing to make financial decisions and act for him/her (the "agent"). These instruments are critical in planning in the event of one's future incapacity. Powers of attorney permit an individual to choose who will make financial decisions in the event of incapacity, rather than having a probate court appoint a conservator of the estate for that individual which may intrude on the individual's liberty interests. Autonomy in our clients' decision making is critical; powers of attorney allow our clients to exercise such autonomy.

Connecticut's current short form power of attorney law was enacted in 1965 and has never been amended. Connecticut's existing power of attorney law is very outdated, to say the least, and lags far behind much more progressive states' power of attorney laws which far better address critical issues including abuse. Issues that exist today did not exist in 1965, such as Individual Retirement Accounts and other forms of retirement benefits. The UPOAA will modernize powers of attorney in Connecticut as follows:

1. **Overly broad powers to the principal will be avoided**--In order for an agent to be authorized to do certain acts, the principal must grant the agent specific authority in the power of attorney. For example, if a principal wants the agent to be authorized to make gifts to members of his/her family, specific authority to make gifts must be stated in the power of attorney.

2. **Elder Abuse will be deterred**—The agent's fiduciary duties are set out, including remedies and sanctions for an agent's abuse.
3. **Acceptance of powers of attorney by third parties will be promoted**—A notarized power of attorney will create a presumption that it is valid. The UPOAA states that a person who accepts a notarized power of attorney may rely on it without incurring liability. Financial institutions often refuse to accept powers of attorney; this legislation will give financial institutions security that they will not incur liability for accepting a notarized power of attorney in good faith. The legislation also provides for circumstances under which a third party may refuse to accept a power of attorney, and sanctions against third parties for unlawful refusals to accept powers of attorney.
4. **Powers of attorney executed in other states valid in Connecticut**—The legislation will allow powers of attorney validly executed in other states to be accepted in Connecticut. If after an individual executes a power of attorney outside Connecticut, and then moves to Connecticut, the out of state power of attorney may not be accepted. If the person is unable to execute a new power of attorney in Connecticut, the only recourse for a family may be to seek the appointment of a conservator of the estate for that individual by a probate court, an unintended and regrettable consequence.
5. **Clarification of who can petition the court to construe the terms of a power of attorney and review an agent's conduct**—Our existing statute only provides authority for a limited number of individuals to request a court to review a power of attorney. The UPOAA expands the list of authorized individuals, thereby affording more opportunities for the protection of the principal.

Passage of the UPOAA will allow for its safeguards to apply retroactively to existing powers of attorney executed under existing law. Existing powers of attorney will not be revoked or invalidated by the passage of the UPOAA.

The UPOAA was approved by the Uniform Law Commission in 2006 and endorsed by AARP in that same year. To date, seventeen (17) states have enacted the UPOAA: Alabama, Arkansas, Colorado, Hawaii, Idaho, Iowa, Maine, Maryland, Montana, Nebraska, Nevada, New Mexico, Ohio, Pennsylvania, Virginia, West Virginia, and Wisconsin. I strongly urge you to support the passage of the UPOAA to make Connecticut the eighteenth jurisdiction to enact the legislation.

Sincerely,



Sandra Sherlock White