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Testimony to the Judiciary Committee in SUPPORT of
House Bill #6774: AAC Adoption of the Connecticut Uniform Power of Attorney Act

By Nora Duncan, State Director

nduncan@aarp.org/866-295-7279

My name is Nora Duncan and I am the State Director of AARP Connecticut. AARP is a nonpartisan social mission organization with an age 50+ membership of nearly 37 million nationwide, and nearly 600,000 here in Connecticut. AARP believes that one's possibilities should never be limited by their age and that, in fact, age and experience can expand your possibilities. AARP is a network of people, tools and information and an ally on issues that affect the lives of our members and the age 50+ population in general.

AARP Connecticut is supportive of House Bill 6774: *An Act Concerning Adoption of the Connecticut Uniform Power of Attorney Act* because adoption of the bill will clarify Power of Attorney duties, add transparencies, set standards for third parties and add liabilities for those who violate the law. The provisions of H.B. 6774 are designed to PROTECT PEOPLE FROM ABUSE and PROMOTE INDIVIDUAL CHOICE. Highlights include:

- Clarify the mandatory and default duties of the agent and indicate when an agent must disclose information about his or her actions to third parties such as courts or adult protective services;
- Set forth the powers that an agent cannot exercise unless the POA expressly authorizes such actions;
- Indicate who may petition a court to construe a POA or review an agent's conduct;
- Establish liability for agents who violate the POA law;
- Address third-party acceptance of and reliance upon a POA; and
- List circumstances under which a third party may legitimately refuse to accept a POA and provide sanctions for unlawful refusals.

I am not going to get into the technicalities of the bill here today. There are plenty of people doing that. Today I am going to tell you a personal story of how Power of Attorney can be abused and misused as a form of financial exploitation.

I have a friend who is elderly and disabled. I will call her Mary. She relies on a network of paid and unpaid caregivers to remain at home, rather than enter a nursing home. I am one of her unpaid caregivers and I am one of the over 700,000 people in Connecticut providing unpaid care to a family member or friend every year in Connecticut.

Mary had a full-time PAID caregiver who got very, very deep into her personal finances, day to day living situation, family matters, healthcare and more. The relationship was viewed by my friend to be one of equals --- a friendship more than an employee/employer relationship. We had a good number of disagreements about this. I felt there needed to be transparency and accountability; she felt that would undermine their relationship. I always suspected that there was a “skimming off the top” going on because I never saw receipts from the many trips to the grocery store or big box store. My friend would not permit me to dig deeper into this and I had to just watch from a distance.

Unbeknownst to me, Mary made this paid caregiver her Power of Attorney. Mary was a part of making this happen, but undue influence was certainly at play. I was made aware of this when the paid caregiver had to take a leave of absence. The absence allowed Mary to gain some perspective on things and she told me about it because she started to fear she had made a mistake, and was quite embarrassed.

It wasn't just the Power of Attorney that had changed; it was her will and the bank accounts too. The will was changed to add what I can only refer to as “death severance package” payable to this woman. She was added as joint owner of the checking account. We worked quickly and quietly to change all of it. It was easy enough to cancel one Power of Attorney and set up another, then change the will, but it was not cheap. This was money that could have gone to keeping her independent and safe at home and instead it went to legal fees.

The lawyer was the easy part. The hard part was the financial institution. Mary went to the bank to close the joint account and explained everything to the bank manager, including sharing the cancelled Power of Attorney forms. She was advised to leave the account open with just a few hundred dollars in it to cover any outstanding checks. Later that evening I planned to help Mary change the online password for the bank account, etc. We did not move fast enough.

The paid caregiver was getting suspicious in the weeks leading up to all of this. She must have gotten a transfer notice on the funds that were moved because within a few hours she called Mary and angrily announced she was quitting. She then made an on-line transfer of \$5,000 back into the not yet closed joint account. She then went to the bank and made a \$5,000 cash withdrawal, without any questions asked. \$5,000 happens to be the exact amount of the death severance package I told you about. She would later claim she was entitled to the cash based on the old will, which she was not aware had been invalidated.

We filed a police report and in small claims court simultaneously. The police were never really able to do anything except question the suspect. I think they may have wanted to, but they were not really sure how. I contacted the bank manager directly and got what I can only describe as “the runaround”. They had labeled the case as “elder abuse” or something similar, but there was no actual policy or records they would share. I reached out to state agencies and was never able to get advice that helped us get her \$5,000 back.

We did get the money back, eventually. But it was luck and fear that did it. We managed to get a referral to a lawyer who was so disgusted that he took the case pro-bono. One letter from him and both the paid caregiver (who had hired an attorney of her own) and the bank and each agreed to pay \$2,500 to Mary, making her financially whole again.

So much of this could have been avoided if this law was already on the books. I am her co-Power of Attorney now. I am also the co-executor of her will. Let's be very clear that I have no financial interest and I never wanted this authority, but I have it because there was nobody else she felt she could trust. I want a bright light shown on my actions. I want financial institutions to have specific requirements. I want there to be recourse and liability when things go bad. I want Connecticut to join the 17 other states that have passed Uniform Power of Attorney so that we can better *PROTECT PEOPLE FROM ABUSE AND EXPLOITATION, and PROMOTE INDIVIDUAL CHOICE.*

Thanks for letting me advocate for AARP members by telling my personal story.