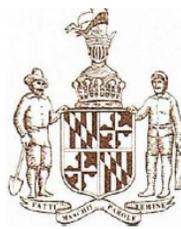


HB92_DeHill_FAVpdf.pdf

Uploaded by: Aubrie Zepp

Position: FAV



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THE MARYLAND HOUSE OF DELEGATES
ANNAPOLIS, MARYLAND 21401

SUPPORT

HB92 - Maryland General and Limited Power of Attorney Act - Assistance with Governmental Benefits and Programs

March 22, 2022

Dear Chairman Smith, Vice-chairman Waldstreicher, and Committee Members,

HB92 alters Maryland limited and general power of attorney (POA) short forms to provide the option for a principal to permit their agent to apply on their behalf for governmental benefits and programs, such as Medicaid, and to otherwise assist in the process of securing such benefits. The bill passed the House unanimously both this and last session, and is a work product of the Life and Health Planning Committee of the Attorney General's 2020 COVID-19 Access to Justice Taskforce.

HB92, modifies Maryland's POA long and short forms to permit someone to direct their agent to:

- access the financial, medical and other supporting documentation required in applying for Medicaid on behalf of the principal;
- hire a Medicaid planner and pay for Medicaid planning services using the principal's income or assets to further help them gain Medicaid eligibility; and
- avoid the potentially expensive and lengthy process of pursuing guardianship, should the principle, usually a loved one, become incapacitated.

Currently, a person can use Maryland's Financial POA statutory form to name an agent and choose amongst a menu of services to allow their agent to assist with, including assistance with the management of personal property and finances. The form menu, however, does not include an option to grant their agent the authority to facilitate or otherwise assist in Medicaid Planning or in the decisions around, and actions of, asset management that may be necessary for the person to qualify for public or government benefits. Without such assistance, individuals miss eligibility opportunities to certain care benefits. As a result they either go without the care or receive it because family covers the cost.

As well-explained by the American Council on Aging (<https://medicaidplanningassistance.org>), for many senior and non-elderly disabled Marylanders the process of qualifying for, applying for, and maintaining Medicaid eligibility and other government benefits are important and often daunting tasks for which a POA can be of critical assistance. To mitigate risks of exploitation of vulnerable persons, I worked with the Elder Law and Estates and Trust sections of the Maryland Bar Association to ensure the legislation provides a principal the flexibility to assign needed authority without being overly-broad with respect to the authority to transfer or gift assets. There's no opposition and I ask for a favorable report on **HB92**.

HB0092 Morris Klein .docx.pdf

Uploaded by: Terri Hill

Position: FAV

To: The Chair and Members of the Senate Judicial Proceedings Committee

Date: March 22, 2022

Re: HB0092 – Maryland General and Limited Power of Attorney Act – Assistance with Governmental Benefits and Programs

2021 Testimony being submitted with the approval of Morris Klein, Esq.

To: The Chair and Members of the House Judiciary Committee

From: MSBA Elder Law Section by Morris Klein, Esq.

Date: February 22, 2021

Re: HB 870 - Maryland General and Limited Power of Attorney Act

Position: Support with Amendments

The Elder and Disability Law Section of the Maryland State Bar Association is an attorney organization whose members represent senior clients. I submit this report only in my capacity of serving as a spokesperson to express the position of this group.

A significant part of many of our members' practices involves drafting financial powers of attorney (and health care powers of attorney, which is not the subject today). A POA is a legal document in which an individual (the principal) appoints another person (the agent) with the legal authority to act on the principal's behalf. This document gives the principal the confidence that a chosen and trusted agent would make sound financial decisions choices if he or she can no longer make decisions. A POA avoids the need for a costly guardianship which results in a stranger making such decisions. An agent's typical actions may include accessing the principal's financial accounts to pay various bills, manage property, file income tax returns, protect assets for their benefit and the benefit of family members, and apply for public benefits such as veterans' benefits and Medicaid.

Eleven years ago, the Maryland General Assembly enacted a power of attorney law (Acts of 2010, Chs. 689 and 690, Md. Estates and Trusts Code Ann. § 17-101 et seq.) intended to make it easier for individuals to sign powers of attorney. The legislature developed some standardized forms that became part of the legislation. These forms are not perfect, and while enough time has passed to justify a more general review of this law, HB 870 focuses on one particular flaw that requires attention.

Some persons who become disabled and require long term care need to protect assets to protect their spouses and other family members from becoming impoverished or to set aside funds for disabled family members in a special needs trust. HB 870 clarifies that such actions are possible. This bill will improve the power of attorney document by offering additional options to better serve the wishes of the principal.

Our section offers amendments to add further clarification. Specifically, the proposed amendments add special needs trusts to the types of programs that the agent may establish and fund on behalf of the principal (amendments to lines 4 - 7 on page 25 of HB 870). It removes the potentially double negative explaining which items require a specific check-off

(lines 33 and 34 on page 25). It allows the agent to specifically initial authorization for unlimited gifting to these programs (on lines 8 - 14 of page 26 of the bill), permit gifts to the agent (line 14 of p. 26), and to fund trusts (line 15 of p. 26).

We assume that the agent is trustworthy and does not abuse his or her authority. Indeed, the agent is legally obligated to serve as a fiduciary of the principal. It is beyond the scope of this legislation to address problems with agents who abuse their authority. We understand that other legislation now on the books or under consideration addresses this issue.

Respectfully submitted,

Morris Klein, Esq.

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HB92 POA JPR Sponsor Testimony (final).pdf

Uploaded by: Terri Hill

Position: FAV

SUPPORT

HB92 - Maryland General and Limited Power of Attorney Act - Assistance with Governmental Benefits and Programs

March 22, 2022

Dear Chairman Smith, Vice-chairman Waldstreicher, and Committee Members,

HB92 alters Maryland limited and general power of attorney (POA) short forms to provide the option for a principal to permit their agent to apply on their behalf for governmental benefits and programs, such as Medicaid, and to otherwise assist in the process of securing such benefits. The bill passed the House unanimously both this and last session, and is a work product of the Life and Health Planning Committee of the Attorney General's 2020 COVID-19 Access to Justice Taskforce.

HB92, modifies Maryland's POA long and short forms to permit someone to direct their agent to:

- access the financial, medical and other supporting documentation required in applying for Medicaid on behalf of the principal;
- hire a Medicaid planner and pay for Medicaid planning services using the principal's income or assets to further help them gain Medicaid eligibility; and
- avoid the potentially expensive and lengthy process of pursuing guardianship, should the principle, usually a loved one, become incapacitated.

Currently, a person can use Maryland's Financial POA statutory form to name an agent and choose amongst a menu of services to allow their agent to assist with, including assistance with the management of personal property and finances. The form menu, however, does not include an option to grant their agent the authority to facilitate or otherwise assist in Medicaid Planning or in the decisions around, and actions of, asset management that may be necessary for the person to qualify for public or government benefits. Without such assistance, individuals miss eligibility opportunities to certain care benefits. As a result they either go without the care or receive it because family covers the cost.

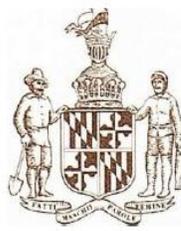
As well-explained by the American Council on Aging (<https://medicaidplanningassistance.org>), for many senior and non-elderly disabled Marylanders the process of qualifying for, applying for, and maintaining Medicaid eligibility and other government benefits are important and often daunting tasks for which a POA can be of critical assistance. To mitigate risks of exploitation of vulnerable persons, I worked with the Elder Law and Estates and Trust sections of the Maryland Bar Association to ensure the legislation provides a principal the flexibility to assign needed authority without being overly-broad with respect to the authority to transfer or gift assets. There's no opposition and I ask for a favorable report on **HB92**.

[Handwritten signature]

TLH Testimony HB092.pdf

Uploaded by: Terri Hill

Position: FAV



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THE MARYLAND HOUSE OF DELEGATES
ANNAPOLIS, MARYLAND 21401

Health and Government Operations Committee

Subcommittees
Government Operations and Health Facilities

Public Health and Minority Health Disparities

SUPPORT

HB92 - Maryland General and Limited Power of Attorney Act - Assistance With Governmental Benefits and Programs

January 19, 2022

Dear Chairman Clippinger, Vice-chairman Moon, and Committee Members,

HB92 alters Maryland limited and general power of attorney (POA) short forms to provide the option for a principal to permit their agent to apply on their behalf for governmental benefits and programs, such as Medicaid, and to otherwise assist in the process of securing such benefits. This legislative proposal is a work product of the Life and Health Planning Committee of the Attorney General’s 2020 COVID-19 Access to Justice Taskforce, a partnership between Attorney General Brian Frosh’s office and the Maryland Access to Justice Commission tasked with, “developing strategies and solutions to address the significant civil legal challenges facing Marylanders in the wake of COVID-19.”

To mitigate risks of exploitation of vulnerable persons, I worked with the Elder Law and Estates and Trust sections of the Maryland Bar Association to ensure the legislation provides a principal the flexibility to assign needed authority without being overly-broad with respect to the authority to transfer or gift assets. This bill is in the same posture as the bill that passed this committee and the House, 131-1, last session.

HB92, modifies Maryland's POA long and short forms to permit someone to direct their agent to:

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