



THE STATE
of **ALASKA**
GOVERNOR BILL WALKER

Department of
Health and Social Services

ALASKA COMMISSION ON AGING

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February 16, 2015

Representative Shelly Hughes
Alaska Capitol, Room 409
Juneau, Alaska 99801-1182

Regarding: Support HB 8, Strengthening Powers of Attorney

Dear Representative Hughes:

The Alaska Commission on Aging is pleased to express our support for HB 8, as authored by you and co-sponsored by Representative Max Gruenberg, to reform Alaska's durable power of attorney statute (AS 14.26). HB 8 will strengthen Alaska's power of attorney statute by incorporating provisions from the model Uniform Power of Attorney Act used by most states making Alaska's statute interstate compatible increasing protection and reducing problems which may develop when the principal and the agent reside in different states. In particular, the Commission appreciates the incorporation of the provision from the uniform law identified as the "substitute decision-making act" that provides protection of a principal when traveling to have alternate agents who are able to make decisions on their behalf.

Most importantly, ACoA supports the proposed improvements of HB 8 to the required power of attorney form with the intent of increasing the principal's control in the delegation of powers related to routine financial transactions and the "hot powers" to their designated agent(s). Under current law, a vulnerable adult who signs the power of attorney form can provide blanket approval for all powers to the agent unless otherwise indicated. HB 8 requires the principal to give special consideration to each power separately and to individually delegate each one to an agent or agents of their choice. Although HB 8 addresses the needs of all vulnerable adults, we focus our attention on the benefits of this legislation we perceive for vulnerable older Alaskans.

An estimated 115,300 Alaskans are age 60 years and older and comprise nearly 15% of the state's population. The number of older Alaskans has nearly doubled since 2000, with persons who are age 85 years and older being one of the state's fastest growing age sectors in the senior population (Alaska Department of Labor Population Estimates 2013). Due to infirmities and cognitive impairment that may result from dementia and adverse reactions from medication, older Alaskans are often at risk for elder abuse and financial exploitation.

According to the state's Office of Elder Fraud and Assistance program, the most common type of fraud perpetrated against older Alaskans involves the abuse of a durable power of attorney. The Office of the Long Term Care Ombudsman concurs, finding that older residents with dementia and other cognitive impairments are particularly vulnerable.

As the Alaska senior population increases, so have reports to Adult Protective Services, the Office of the Long-Term Care Ombudsman and the Office of Elder Fraud and Assistance. Reports of harm to Adult Protective Services, for example, have risen by 118% over the last 5 years with the highest number of reports related to self-neglect and financial exploitation.

By incorporating provisions of the model 2006 Uniform Power of Attorney Act promulgated by the Uniform Law Commission into Alaska's power of attorney statute, there will be clearer guidance related to the fiduciary duties of the agent to act in the best interests of a vulnerable elderly person. Further, HB 8 will provide a new statutory power of attorney form that will require the senior to expressly approve the delegation of each power to their designated agent including the authority to sell, dispose, convey, and encumber real and personal property belonging to the senior. We see these changes as significant improvements in the power of attorney form currently in use.

Financial exploitation against older adults is a widespread social problem that can affect any vulnerable older adult cutting across all socio-economic, cultural, racial, and ethnic divisions. The Commission believes that HB 8 furthers efforts to strengthen protection for Alaska's vulnerable adults against financial exploitation. We appreciate your consideration of our request to clarify definitions of the terms "conservator," "guardian," and "public home care provider" as used in this legislation. Thank you for your leadership on HB 8.

Sincerely,


Mary E. Shields
Chair, Alaska Commission on Aging

Sincerely,


Denise Daniello
ACoA Executive Director

Cc: Representative Max Gruenberg