



**The New Power of Attorney Laws:
What Health Care Facilities Need to Know to Avoid Liability**
Cona Elder Law PLLC

New York State recently passed legislation simplifying the Power of Attorney (POA) document and its execution. Every Power of Attorney executed on or after June 13, 2021 must comply with the new rules. The new laws leave health care facilities facing potential exposure when handling resident funds through the use of a POA.

Among the changes to the law governing New York's Powers of Attorney are:

- The New York Statutory Power of Attorney Form must be used in order for the POA to be valid.
- A typographical error in the Power of Attorney will not invalidate the entire document.
- The Statutory Gifts Rider has been eliminated. In addition, the basic statutory gifting amount has been increased from \$500 to \$5,000.
- The Power of Attorney requires two witnesses to verify that the principal signed the POA.
- Banks and other institutions can no longer reject a POA without valid grounds or require their own document. Under the new law, financial institutions must accept or reject a POA within 10 days of submission. If the POA is rejected, the financial institution must provide a valid reason in writing.
- A financial institution which unreasonably refuses to accept a POA can be sued, and the aggrieved party can be awarded damages and attorney fees.

Health care facilities may be considered "institutions," particularly when managing residents' or patients' funds (such as personal incidental allowance or "PIA" accounts), and are required to comply with these provisions, namely, indicating in writing, within 10 days of presentation of a POA for use at the facility that the facility is rejecting the POA and will be required to provide a valid reason for its rejection. It is also important to note that a facility cannot "frivolously reject" a Power of Attorney – or else it may cause the facility to incur steep penalties. If a facility has any doubt as to whether a Power of Attorney is valid, the facility should have it reviewed by its attorneys at Cona Elder Law immediately, so that you can ensure the POA complies fully with these laws and your facility is protected.

The experienced attorneys at Cona Elder Law can assist you in managing this process. Please contact us for your free virtual "Best Practices" seminar specifically for Leading Age members.

Contact Christina Pecoraro at 631.390.5000 or cpecoraro@conalaw.com to schedule yours today.

Cona Elder Law PLLC is an award-winning Elder Law and Health Care Law firm. In practice for over two decades, Cona Elder Law offers unsurpassed expertise in Health Care Facility Reimbursement and Recovery, Elder Law, litigation and collections. Health care facilities turn to Cona Elder Law for innovative strategies and cutting-edge solutions regarding complex Medicaid eligibility matters, Guardianship proceedings, PRUCOL matters, collections, litigation, and other matters related to resident financial accounts and the facility's bottom line. Representing over 200 skilled nursing facilities, CCRCs and assisted living facilities throughout New York and New Jersey, Cona Elder Law is a preeminent law firm in this practice area. The firm has been ranked the #1 Elder Law Firm by Long Island Business News for eight consecutive years and received the Business Achievement Award from the Hauppauge Industrial Association (HIA-LI). For additional information, visit www.conaelderlaw.com.

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