



## Practice Tip: Drafting Advance Planning Documents to Reduce the Risk of Abuse or Exploitation



A recent webinar by the [National Center on Law & Elder Rights](#) provided several good tips and sample language on adding protections for clients in the Financial Power of Attorney to help avoid abuse. The presenter, David Godfrey of the [ABA Commission on Law and Aging](#), offered several practical suggestions. Where appropriate, you might want to consider adding some of these to the “Special Instructions” section on the Financial Power of Attorney form.

- **Third Party Accounting**

This could require full accounting (inventory, accounts, documents, transactions) and require access to financial records.

**Sample language:** “My agent shall keep complete records of all transactions on my behalf and provide a quarterly accounting to X. The quarterly accounting shall include copies of all financial statements, credit card or loan statements.”

- **Second Signature**

This could require a second signature for specific transactions, like a certain dollar amount trigger, selling real estate or investments.

**Sample language:** *“The sale, pledge, mortgage, transfer, rental or lease of any real estate shall require, in addition to the signature of my agent named in this document, the signature of X or X.”*

OR

*“Any transaction or series of related transactions totaling more than \$X shall require two signatures, the signature of my agent named in this document and the signature of X.”*

- **Define Gifting Power**

This could deny or limit gift giving, including types of gifts, to specific persons, in limited amounts or frequency.

**Sample language:** *“My agent may only make gifts to my children or grandchildren, at Christmas or on their birthdays, in keeping with my traditions, no gift shall exceed \$100 in value, of cash, real or personal property.”*

OR

*“No gifts shall be made of my money, real or personal property by my agent to anyone for any reason.”*

- **Limited Powers**

This would limit the agent’s ability to make changes to beneficiary designations, including life insurance, bank accounts, etc.

**Sample language:** *“My agent is not authorized to change the beneficiary, payable on death, or transferable on death designations on any bank account, financial account, life insurance policy, pension, trust, annuity or similar contract or instrument, with the exception that my agent may assign a life insurance policy for the limited purpose of pre-paying funeral arrangements for me incident to an application for Medicaid benefits.”*

If you’d like more information, you can view the [slides](#), [webinar recording](#), or review an [Issue Brief](#).

As a reminder, MVLS has launched a major [Advanced Planning Project](#) and is actively reaching out to community groups, religious institutions and community health programs to explain how estate planning can help stabilize low-income communities. If you have a relationship with an organization you think might be a good fit for us to connect with, please contact [John Kern](#), our Advanced Planning Project Coordinator.

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## UPCOMING ADVANCE PLANNING TRAININGS

### **Estate Administration Training**

**Sept. 7 | 9 am - 12 pm**

MVLS Office (or via webinar)

201 N. Charles St. | Suite 1400

Baltimore, MD 21201

Have you been *dying* to learn the ins and outs of estate administration? This session is for you. It will cover the basics of small and regular estates, what falls into probate, opening estates, claims

against an estate, distribution, forms, and drafting and recording a personal representative deed. In addition to being a good opportunity to grow your knowledge base, for attorneys seeking to do pro bono without involving litigation, estate cases assigned through MVLS are uncontested and do not involve any judicial proceedings. The training will be conducted by K. Alice Young of [Nusinov Smith](#). This training will be offered in-person at the MVLS office as well as online via webinar.



**REGISTER**

### **The Basics of Life Estate Deeds** **Sept. 20 | 12 - 1:30 pm**

When working with pro bono clients to set up estate plans to avoid probate, there are a variety of things to consider. If they are homeowners, one option to discuss is the use of a life estate deed. For many MVLS clients, many of whom wish simply to keep the family home in the family, this can be particularly important, to ensure that the property ends up being titled in the correct individual(s) name(s) without the need for probate. If you aren't sure how to do a life estate deed, this training is for you.

You will receive practical tips on the pros and cons of doing a life estate, learn about life estate with and without powers, and review templates to assist with drafting a life estate deed. The training will be conducted by Olivia Holcombe-Volke, a partner at [Elville & Associates, P.C.](#) In her practice, she handles all aspects of estate planning, including the initial drafting of wills, trusts, advance directives, and powers of attorney, and regularly addresses the needs of elder law clients, assisting with Medicaid asset protection efforts, and special needs planning.

**REGISTER**

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