



Notary Law Update: House Bill 6477

Synopsis: House Bill 6477 amends Illinois' Power of Attorney Act by clarifying that a power of attorney for property must be witnessed by one witness and notarized by a Notary who is not the witness for the power. In addition, the new law prohibits a Notary from notarizing a power under certain circumstances. IMPACT ON NNA Editorial Story in Bulletins Notary Affairs Consider incorporating changes into 2012-2013 U.S. Notary Reference Manual Best Practices Update the Illinois State Law Summary Program Development Revise the Illinois Primer when stock depletes Information and Educational Services Be aware of the new law and teach and/or counsel inquiring members as appropriate Information Technology

State: Illinois

Effective: July 1, 2010

Signed: July 22, 2010

Chapter: Public Act No. 1195

Affects: Amends the Illinois Power of Attorney Act, 755 ILCS 45/1-1 et seq.

Changes:

1. Clarifies that a statutory and nonstatutory power of attorney for property must be witnessed by one witness and acknowledged before a Notary Public. (Note: a "statutory property power" consists of the following: (a) the statutory Notice to the Individual Signing the Illinois Statutory Short Form Power of Attorney for Property; (b) the Illinois Statutory Short Form Power of Attorney for Property; and (b) the statutory Notice to Agent.
2. Prohibits a Notary who notarizes a power of attorney for property from also serving as the required witness for the power.
3. Prohibits a Notary from notarizing a power of attorney for property if the Notary is: (a) the principal's attending physician or mental health service provider, or a relative of the physician or provider; (b) an owner, operator, or relative of an owner or operator of a health care facility in which the principal is a patient or resident (note: directors and executive officers of an operator that is a corporate entity may not notarize the power but an employee of the operator may notarize the power); (c) a parent, sibling, or descendant, or the spouse of a parent, sibling, or descendant, of either the principal or any agent or successor agent, regardless of whether the relationship is by blood, marriage, or adoption; or (d) an agent or successor agent for property.

Analysis:

House Bill 6477 makes changes to the Illinois Power of Attorney Act. Specifically with respect to

Notaries, the law now clarifies that a power of attorney for property must be notarized by one person and witnessed by another person. A Notary who notarizes a power of attorney for property may not serve as the one required witness for the power. Furthermore, a Notary may not notarize the power if the Notary is the principal's health care provider; owner or operator, or relative of the owner or operator of the health care facility in which the principal is a resident; a close relative of the principal or an agent or successor agent; or an agent or successor agent.