

Effective 5/7/2025

75A-2-105 Execution of power of attorney.

- (1)
- (a) A principal may sign a power of attorney, or direct another individual in the principal's conscious presence to sign the principal's name on the power of attorney, if:
 - (i) the power of attorney is signed before a notary public or other individual authorized by the law to take acknowledgments; and
 - (ii) the principal has sufficient mental capacity at the time that the power of attorney is executed to understand that the principal is appointing an agent to handle the principal's financial affairs.
 - (b) A signature on a power of attorney is presumed to be genuine if the principal acknowledges the signature before a notary public or other individual authorized by law to take acknowledgments.
 - (c) A principal's understanding of how an agent will manage the principal's affairs is not required for sufficient mental capacity under Subsection (1)(a)(ii).
- (2)
- (a) If the principal resides or is about to reside in a hospital, assisted living, skilled nursing, or similar facility, at the time of execution of the power of attorney, the principal may not name any agent that is the owner, operator, health care provider, or employee of the hospital, assisted living facility, skilled nursing, or similar residential care facility unless:
 - (i) the agent is the spouse, legal guardian, or next of kin of the principal; or
 - (ii) the agent's authority is strictly limited to the purpose of assisting the principal to establish eligibility for Medicaid.
 - (b) A violation of this Subsection (2) is a violation of Section 76-5-111.4.

Amended by Chapter 338, 2025 General Session