



Report on Public Policy Position

Name of Section:

Probate and Estate Planning

Contact Person:

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Other:

Potential Recommendations - Elder Abuse Task Force

Date position was adopted:

3\23\06

Process used to take the ideological position:

E-mail survey sent to council members

Number of members in the decision-making body:

23 - 19 participated

Number who voted in favor and opposed to the position:

19 - In favor

0 - Opposed

FOR SECTIONS ONLY:

- ✓ This subject matter of this position is within the jurisdiction of the section.
- ✓ The position was adopted in accordance with the Section's bylaws.
- ✓ The requirements of SBM Bylaw Article VIII have been satisfied.

If the boxes above are checked, SBM will notify the Section when this notice is received, at which time the Section may advocate the position.

Position:

Opposition to Power of Attorney Registration: Oppose any law that would require the registration of all power of attorney documents, which would limit the actions an agent could take on behalf of a principal in all cases, or which would mandate that agents acting under a POA automatically report or account to a court without regard to any allegations of wrongdoing.

Michigan law already provides a mechanism for court oversight of the activities of an agent acting in accordance with a POA, which oversight can be triggered by any interested party at any time there is concern as to the propriety of an agent's actions. Although the Probate and Estate Planning Council appreciates the

spirit in which these suggestions have been made, we strongly believe that making registration or court review mandatory would result in significantly more harm than good.

A few of our concerns include: (1) the idea of mandatory registration of a private estate planning document violates the desires and privacy rights of the vast majority of people who use these documents to protect their estates and preserve their privacy; (2) the additional work this would place on the courts would be enormous and would interfere with the courts' ability to handle those matters it is already responsible for; (3) the concept of increased court involvement is inconsistent with the trend of probate administration as expressed in Michigan law; (4) the idea of mandatory court intervention in the activities of an agent acting on behalf of an incompetent or otherwise disabled person would violate the fundamental rights of those individuals.

The text (may be provided by hyperlink) of any legislation, court rule, or administrative regulation that is the subject of or referenced in this report:

N/A