

Avoiding Potential Problems...

Strongly urge not to open joint bank accounts.

Instead open the account and grant POA to pay bills. That avoids the co-ownership relationship, only having authority to act as agent.

Tips to Prevent and Remedy Financial Abuse

Counsel:

- Meet individual principal alone to explain the nature of the power of attorney and the power of the document. Never talk to the principal in presence of family or friends.
- Make sure they trust the agent completely
- Explain to the principal their right to revoke and give confidential information to the principal on revocation
- Explain to the agent the duties arising under the relationship and the presumptions of fraud, then document that you gave the explanation.

Tips to Prevent and Remedy Financial Abuse

Drafting:

- Include accounting provision for after revocation of the POA
- Specify and limit gifts authorized by principal
- Consider prohibiting joint accounts, so POA can only access as agent.
- Limit withdrawal powers and INFORM financial institutions
- Include provision requiring agent to communicate with the principal about financial matters in addition to or as part of a regular accounting.
- Consider requiring third party approval for major transactions, such as the transfer of real estate or changing beneficiaries on life insurance policy.
