



Ohio Revised Code Section 1337.34 Agent's duties.

Effective: March 22, 2012

Legislation: Senate Bill 117 - 129th General Assembly

(A) Notwithstanding provisions in the power of attorney, an agent that has accepted appointment shall do all of the following:

(1) Act in accordance with the principal's reasonable expectations to the extent actually known by the agent and, otherwise, in the principal's best interest;

(2) Act in good faith;

(3) Act only within the scope of authority granted in the power of attorney;

(4) Attempt to preserve the principal's estate plan to the extent actually known by the agent if preserving the plan is consistent with the principal's best interest based on all relevant factors, including all of the following:

(a) The value and nature of the principal's property;

(b) The principal's foreseeable obligations and need for maintenance;

(c) Minimization of taxes, including income, estate, inheritance, generation-skipping transfer, and gift taxes;

(d) Eligibility for a benefit, a program, or assistance under a statute or regulation.

(B) Except as otherwise provided in the power of attorney, an agent that has accepted appointment shall do all of the following:

(1) Act loyally for the principal's benefit;



(2) Act so as not to create a conflict of interest that impairs the agent's ability to act impartially in the principal's best interest;

(3) Act with the care, competence, and diligence ordinarily exercised by agents in similar circumstances;

(4) Keep a record of all receipts, disbursements, and transactions made on behalf of the principal;

(5) Cooperate with a person that has authority to make health-care decisions for the principal to carry out the principal's reasonable expectations to the extent actually known by the agent and, otherwise, act in the principal's best interest.

(C) An agent that acts in good faith is not liable to any beneficiary of the principal's estate plan for failure to preserve the plan.

(D) An agent that acts with care, competence, and diligence for the best interest of the principal is not liable solely because the agent also benefits from the act or has an individual or conflicting interest in relation to the property or affairs of the principal.

(E) If an agent is selected by the principal because of special skills or expertise possessed by the agent or in reliance on the agent's representation that the agent has special skills or expertise, the special skills or expertise must be considered in determining whether the agent has acted with care, competence, and diligence under the circumstances.

(F) Absent a breach of duty to the principal, an agent is not liable if the value of the principal's property declines.

(G) An agent that exercises authority to delegate to another person the authority granted by the principal or that engages another person on behalf of the principal is not liable for an act, error of judgment, or default of that person if the agent exercises care, competence, and diligence in selecting and monitoring the person.

(H) Except as otherwise provided in the power of attorney, an agent is not required to disclose



receipts, disbursements, or transactions conducted on behalf of the principal unless ordered by a court or requested by the principal, a guardian, a conservator, another fiduciary acting for the principal, a governmental agency having authority to protect the welfare of the principal, or, upon the death of the principal, by the personal representative or successor in interest of the principal's estate. If so requested, within thirty days the agent shall comply with the request or provide a writing or other record substantiating why additional time is needed and shall comply with the request within an additional thirty days.