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**New Jersey Elder Lawyer**

**ARTICLES BY JAMES DE MARTINO**

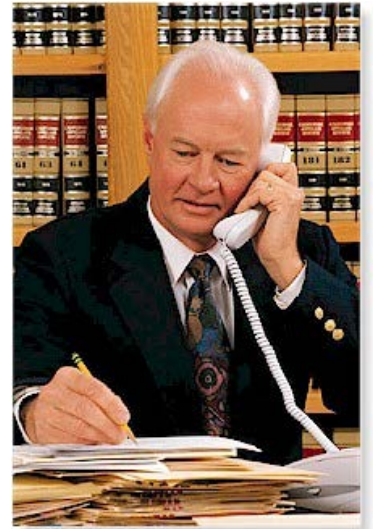
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## **DURABLE POWER OF ATTORNEY**

For Power of Attorney in New Jersey Assistance

There are several types of Powers of Attorney which are used as estate planning instruments.

- **Specific Power of Attorney:** for a limited purpose.
- **Time-Sensitive Power of Attorney:** for a limited time period.
- **Springing Power of Attorney:** only in effect when a person is deemed to be incapacitated or unable to handle their day-to-day legal and financial affairs. This usually requires the written evaluations of two medical professionals. This can present problems as some individuals may have lucid intervals, but may still not be able to handle their legal and financial affairs on a day-to-day basis— but the medical.
- **Immediate Power of Attorney:** this is in effect immediately. This is akin to giving someone an “extra set of keys”.
- **General Durable Power of Attorney:** covers virtually all legal and financial powers and has no expiration date.



Although we will tailor a Power of Attorney to meet a client's needs, we generally recommend instrument which is:

- General and durable
- No expiration date c. is an “immediate” and not “springing as described above.

In order to successfully prevail with the many aspects of the financial and legal world, our Powers of Attorney are nearly 30-pages long!

This estate planning document gives someone a wide range of powers in overseeing financial and legal decisions of a particular client.

This document is very vast, yet very precise. It has to be this way in order to pass scrutiny by Medicaid, the IRS, and other institutions. The routine 2-3 page Power of Attorney, frequently used by law office for real estate closings or banking powers may not be adequate.

Our Powers of Attorney specifically list the exceptions to the Medicaid 5-yr. lookback rule as authorized by the DRA (Deficit Reduction Act of 2005). Thus, the agent can activate Medicaid planning and long-term care planning on behalf of the client.

Certain legal and financial institutions may attempt to frustrate an individual when they are acting on behalf of their loved one. They may argue that the 2-3 page

Power of Attorney doesn't precisely specify the ability for the agent to act in the capacity desired.

Our 30-page Power of Attorney speaks for itself with regard to with regard to being precise and specific.

Failure to name a Power of Attorney agent may invite the expense and delay of litigation.

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## **James E. De Martino, Attorney**

**Elder Law and NJ Estate Planning Strategies**

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