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*Concentrating in Elder and Special Needs Law*

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### **Instructions for Use of a DMPOA**

A Durable Medical Power of Attorney (DMPOA) is a document under which you name one or more persons to help you make medical decisions while you are incapacitated. In it you — the “principal” — name someone you trust to act as your “agent” in making your medical and healthcare decisions in the event that you become unable to do so. You can and should, of course, still handle your own medical affairs as long as you choose to and are able to do so.

#### ***“Durable”***

The term “Durable” pertains to specific essential language which enables your agent to act on your behalf if, and especially when, you become temporarily or permanently incapacitated. This language is important, as if it is missing medical institutions and doctors may be reluctant to allow your agent to use the document. Upon your death or the death of all of your agents the document has no further effect and your agent’s authority to act for you will end. This document does not give someone the power to make financial decisions for you.

If, at some time in the future, you either are not able or simply choose not to make a medical or healthcare decision for yourself, then your agent can step in and make that decision on your behalf. In order to do that, the agent will need to present the original signed and witnessed DMPOA document to the medical institution or doctor involved in providing your healthcare.

#### ***Access Medical Information***

For example, if your agent has the authority under the DMPOA to access medical records from your doctor, he would take the original DMPOA to the appropriate health care provider. The provider would review the document to be certain that the agent had the requisite authority, may ask for identification from the agent, would likely make a copy of the document, and would then allow the agent to

obtain copies of the medical records. Following the implementation of the HIPAA privacy law in 2003, it has become very important to have good Durable Medical Powers of Attorney that allows your agent to have access to your healthcare records.

### ***Difference between DMPOA and Living Will***

Your Durable Medical Power of Attorney document is not a Living Will. It appoints an agent and successor agent to make medical decisions concerning your well being and your healthcare. A Living Will allows you to inform your agent, your family and your doctor how you wish to be treated in the event that you have a terminal condition, are in a coma, or are in a persistent vegetative state. Both documents are necessary and perform separate and equally important tasks.

### ***Maintain Control of the Original***

After using a DMPOA to obtain records or information or to make a decision, the agent should always get the original DMPOA document back so that it will be available for future use.

### ***Revocation***

If you, as the principal, wish to revoke the DMPOA during your lifetime you should write, sign, and date a revocation of power of attorney and give it to the agent as well as to anyone else who has been relying upon the document and dealing with the agent.

