



James E. De Martino, Attorney
P.O. Box 126 Belvidere, NJ 07823

908-874-5636
(fax) 570-897-6452

New Jersey Elder Lawyer

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- [MONTHLY INCOME OVER \\$2,205?](#)
- [The Alzheimer Prayer](#)
- [Nursing Home Bound?](#)
- [Nursing Home Care](#)
- [Single People](#)
- [Married People](#)
- [What About Medicare?](#)
- [What is Medicaid?](#)
- [What You May Not Know](#)
- [Medicaid Asset Rules](#)
- [Medicaid Joint Accounts](#)
- [Giving Assests Away?](#)
- [Division of Assets](#)
- [Giving Away Money Per Year?](#)
- [Will I Lose My Home?](#)
- [Medicaid Planning Consultaion](#)
- [Regular Estate Planning](#)
- [Caregiver Child](#)
- [When to Bypass a Spouse](#)

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NJ Long Term Care Planning

CAN A PERSON BE TIED TO A CHAIR DUE TO A FEAR THAT HE/SHE MIGHT WANDER AWAY FROM A NURSING HOME?

A resident has the right to be free from “any physical or chemical restraint imposed for purposes of discipline or convenience and not required to treat the resident’s medical symptoms.” (Sec. 483.13 of Title 42 of the Code of Federal Regulations).

The term “physical restraint” includes (among other things) vest restraints, hand mitts, seat belts, bed rails, and chairs that are angled to prevent the resident from getting out. (Surveyors Guideline to Sec. 483.13(a) of Title 42 of the Code of Federal Regulations, Appendix PP to CMS State Operations Manual.

A restraint can be imposed only “to ensure the physical safety of the resident or other residents, and (except in an emergency,) only upon written order of a physician that specifies the duration and circumstances under which the restraints are to be used.” Secs. 1395i-3(c)(1)(A)(ii) and 1396r(c)(1)(A)(ii) of Title 42 of the United States Code.

Although the law recognizes the use of restraints to protect residents, it has also been found that the use of such restraints ironically increases the number of falls, and/or the severity of injury in the falls that occur.

Our office helps people find the type of long-term care they deserve, while preserving their assets within the context of the law. We are available for in-house workshops, for your staff, on the subject of long-term care planning.

James E. De Martino is licensed to practice in the State of New Jersey.

Our practice is limited to estate planning, long-term care planning, and NJ Medicaid asset protection.

Elder Law and NJ Estate Planning Strategies

P.O. Box 126 Belvidere, New Jersey , 07823

Phone: 908-874-5636

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