



**UPDATED FOR 2022**

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## **FIVE COMMON ESTATE PLANNING ERRORS**

### **NJ Long Term Care Planning**

1. **Lack of Updated Wills:** Your estate plan should be updated every five years—or more often as circumstances may warrant.
2. **Do It Yourself Documents:** As people have more access to the internet, more are electing to download wills, trusts, living wills, and powers of attorney from these sources. This may appear initially to result in a savings of several hundred dollars. The problem is mistakes are not usually found until after a person dies and then it too late to fix them. A person came to our office with a generic will, power of attorney and living will that he downloaded. Not one of these documents was properly drafted or executed pursuant to NJ practice and procedure. Additionally, when we reviewed these instruments with the individual, it was found that his intentions were not truly reflected within the downloaded instruments.
3. **Lack of Coordination of Benefits:** The Will is only effective if assets are in an individual's name alone. Jointly owned assets, life insurance policies, retirement plans, annuities, and other assets pass outside a Will. The titling of assets and beneficiary designations must be synchronized with the individual's estate planning intentions.
4. **Lack of Anticipation of Long Term Care Needs:** Most estate plans address the issue of death and thus are powerless in addressing the issue of Medicaid in event an individual requires long-term care. Unless estate planning instruments are drafted with Medicaid planning in mind, a family may find itself paying up to \$140,000-\$156,000/yr. for Nursing Home Care.
5. **Existence of an Anemic Power of Attorney:** Many Powers of Attorney we review are incredibly inadequate. In essence, they consist of one or two pages which declare that the agent can do "anything I could do". Although the intention may seem obvious, the outside world (banks, financial institutions, the IRS, Medicaid) can refuse to accept them on the grounds that they are not specific or detailed enough to warrant the action which the agent attempts to take.

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.

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