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ELDER LAW NEWS UPDATE

Winter 2010

TO: Clients, Friends and Colleagues

SUBJECT: NEW POWERS OF ATTORNEY- 2010 UPDATE

As you may be aware, a New Statutory Power of Attorney form is in effect in New York State by virtue of a change in the law. Chapter 644 of the NYS laws of 2008 made sweeping changes to Article 5 Title 15 of the General Obligations Law effective September 1, 2009, which technical corrections were followed by Chapter 340 of the NYS Laws of 2010. The changes not only effect the format of the form, but the manner in which it is executed, interpreted and utilized. The latest changes were effective September 12, 2010. The 2009 Power of Attorney may no longer be executed.

Be aware, the agent has a specific fiduciary duty to you to act according to your wishes, avoid conflicts that would impair his/her ability to act in your best interest, keep your property separate from his or her own, keep a record of all transactions made on your behalf, and properly identify himself/herself as the agent on all documents signed. Accordingly, the agent is now required to sign the Statutory Power of Attorney.

A Statutory Gifts Rider accompanies the Statutory Power of Attorney and must be signed before two witnesses. This is to ensure that the principal (you) are aware that you are providing gift giving powers to your agent. It may involve all or some of your assets based upon estate, tax, financial and medicaid considerations.

These are but two of the most significant changes that have been realized with the passage of the new law.

If you have any questions, feel free to schedule an appointment to discuss your concerns.

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