

§ 46:2B-8.2. Powers of attorney; durable powers of attorney; disability defined

a. A power of attorney is a written instrument by which an individual known as the principal authorizes another individual or individuals or a qualified bank within the meaning of P.L. 1948, c. 67, § 28 (C. 17:9A-28) known as the attorney-in-fact to perform specified acts on behalf of the principal as the principal's agent.

b. A durable power of attorney is a power of attorney which contains the words "this power of attorney shall not be affected by subsequent disability or incapacity of the principal, or lapse of time," or "this power of attorney shall become effective upon the disability or incapacity of the principal," or similar words showing the intent of the principal that the authority conferred shall be exercisable notwithstanding the principal's subsequent disability or incapacity, and unless it states a time of termination, notwithstanding the lapse of time since the execution of the instrument.

c. Unless otherwise defined in the instrument, a principal shall be under a disability if the principal is unable to manage his property and affairs effectively; and an attorney-in-fact shall be under a disability if the attorney-in-fact is unable to exercise the authority conferred by the power of attorney effectively.