

GAPS LEGAL, PLLC NEWS & NOTES

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ABOUT US

We focus our practice on Guardianship, Advocacy, Probate, Planning, and Special Needs. We actively listen to your needs to recommend an effective and efficient solution.

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THE STUDENT PLANNING ISSUE – FAQs FOR PARENTS

My child is off to college or work after turning 18. Why do they need to plan? When your child reaches age 18, he or she is an adult who can make his or her own decisions. Mom and Dad have very limited ability to intervene without the child's consent. It is recommended that each child upon turning 18 sign a Durable Power of Attorney, Health Care Surrogate Designation, and Living Will. If your child should be in an accident or suffer a major illness, these documents may avoid court proceedings.

What is a Durable Power of Attorney? This document can assist in handling your financial matters if you become unable to manage your affairs or need assistance to do so. This is especially valuable for paying bills and protecting assets.

What is a Health Care Surrogate Designation? This document allows you to designate a person to make health care decisions for you when you are not able to do so yourself.

What is a Living Will? This document states, in writing, how you want to be kept live or allowed to die at the end of your life.

"If you don't plan for yourself, the court will plan for you."

My child will be 18 soon and has special needs. How do I plan? This will depend on your child's special needs and abilities.

Can your child make reasoned decisions? If yes, then consideration should be given to him or her signing a Durable Power of Attorney, Health Care Surrogate Designation, and Living Will.

Will your child cooperate with the provision of necessary services to ensure his or her safety and health? If yes, appointment of a Guardian Advocate may be appropriate. This requires court proceedings and oversight. If no, court proceedings may be necessary to determine incapacity and appoint a guardian.

What happens if my child doesn't plan? That depends on what your child requires in terms of financial or medical assistance. If your child suffers a major trauma that will involve a lawsuit, public benefits, or any other property matters, the court will need to appoint a guardian. The court will now dictate how funds are spent to take care of your child's needs. If your child needs medical consents or treatment and is not married, a parent may make the decision. It may not be the parent the child would choose, or the parents may disagree. If the parents disagree, it could require the court to appoint a guardian to make medical and personal decisions.

"Planning now avoids future chaos for your family."
