

Special Needs Legal and Financial Concerns

Are you asking yourself these questions?

- How will we pay for the special therapies our child needs now?
- Who will pay our child's expenses once he or she becomes an adult?
- Where will our child live and who will oversee his or her care after we are gone?

These questions and fears might stop you in your tracks. But financial planners say that creating a plan can ease anxiety. Some of the issues you need to confront are financial: How do you set aside money for your child without affecting his or her government benefits? And some are emotional: Who would understand your child's needs if something were to happen to you right now?

**Need further
assistance?**

Pisgah Legal Services ----- 1-800-489-66144

Henderson, Buncombe, Madison, Polk, Rutherford, Transylvania

PLS seeks to pursue justice by providing legal assistance and advocacy to help low-income people in Western North Carolina to meet their basic needs and improve their lives.

Special Needs Alliance ----- <https://www.specialneedsalliance.org/>

The mission of the SNA is to maintain a professional organization of attorneys skilled in the complex areas of public entitlements, estate, trust and tax planning, and legal issues involving individuals with physical and cognitive disabilities.

Disability Rights North Carolina ----- 1-877-235-4210

DRNC is a legal advocacy agency that fights for the rights of people with disabilities in North Carolina. They handle cases involving discrimination, abuse and other rights violations. All services are at no cost to North Carolinians with disabilities.

Legal Aid of North Carolina ----- 1-866-219-LANC (5262)

Legal Aid of North Carolina is a statewide, nonprofit law firm that provides free legal services in civil matters to low-income people in order to ensure equal access to justice and to remove legal barriers to economic opportunity.

Legal Health Issues Fact Sheet

Medical Power of Attorney

A Medical Power of Attorney is a document, signed by a competent adult; designating a person that she/he trusts to make health care decisions on their behalf should they become unable to make such decisions. We have provided a sample document in the Appendix for your review. Check the following websites for more information: www.legalhelpmate.com/power-of-attorney.aspx; www.expertlaw.com/library/estate_planning/power_of_attorney.html.

Health Insurance Portability and Accountability Act (HIPAA)

HIPAA is a federal law that covers both the privacy of your youth's medical information as well as issues related to the transfer and continuation of health insurance coverage. We have included a fact sheet in the Toolkit for your review. For more information check the US Department of Health and Human Services website at www.hhs.gov/ocr/hipaa.

Family Educational Rights and Privacy Act (FERPA)

FERPA is another federal law that deals with access to educational records, as well as health records held at educational institutions. Please review the fact sheet in the Appendix. A brochure for parents can be found on the US Department of Education website: www.ed.gov/policy/gen/guid/fpco/brochures/parents.pdf.

Guardianship

There are many factors to consider when deciding guardianship. A guardianship is the legal proceeding by which a capable adult (e.g. agent) can be appointed to manage the personal or financial affairs of an individual who is unable to do so on his or her own. As a parent, the best resource for obtaining more information is to visit the NC Guardianship Association at www.nc-guardian.org.

Adapted from: Carolina Health and Transition: Health Care Transition A Parent, Family and Caregiver's Guide. The North Carolina Division of Public Health Section, Children & Youth Branch, publication 2009

Medical Power of Attorney

Effective Upon Execution

I, [NAME], a resident of [ADDRESS. COUNTY, STATE]; Social Security Number [NUMBER] designate NAME], presently residing at [ADDRESS], telephone number [PHONE NUMBER] as my agent to make any and all health care decisions for me, except to the extent I state otherwise in this document. For the purposes of this document, "health care decision" means consent, refusal of consent, or withdrawal of consent to any care, treatment, service, or procedure to maintain, diagnose, or treat an individual's physical or mental condition. This medical power of attorney takes effect if I become unable to make my own health care decisions and this fact is certified in writing by my physician.

Limitations: [Describe any desired limitations, for example, concerning life support, life-prolonging care, treatment, services, and procedures.]

Inspection and Disclosure of Information Relating to My Physical or Mental Health: Subject to any limitations in this document, my agent has the power and authority to do all of the following:

1. Request, review, and receive any information, verbal or written, regarding my physical or mental health, including, but not limited to, medical and hospital records;
2. Execute on my behalf any releases or other documents that may be required in order to obtain this information;
3. Consent to the disclosure of this information.

Additional Powers: Where necessary to implement the health care decisions that my agent is authorized by this document to make, my agent has the power and authority to execute on my behalf all of the following:

1. Documents titled or purporting to be a "Refusal to Permit Treatment" and "Leaving Hospital Against Medical Advice";
2. Any necessary waiver or release from liability required by a hospital or physician.

Duration: This power of attorney exists indefinitely from its date of execution, unless I establish herein a shorter time or revoke the power of attorney. **[If applicable:** This power of attorney expires on [DATE]. If I am unable to make health care decisions for myself when this power of attorney expires, the authority I

have granted my agent shall continue to exist until such time as I become able to make health care decisions for myself.]

Alternative Agent: In the event that my designated agent becomes unable, unwilling, or ineligible to serve, I hereby designate [NAME], presently residing at [ADDRESS], telephone number [PHONE NUMBER] as my as my first alternate agent, and [NAME], presently residing at [ADDRESS], telephone number [PHONE NUMBER] as my as my second alternate agent.

Prior Designations Revoked: I revoke any prior Medical Power of Attorney.

Location of Documents: The original copy of this Medical Power of Attorney is located at [Location].

Signed copies of this Medical Power of Attorney have been filed with the following individuals and institutions: [Names and Addresses].

I sign my name to this Medical Power of attorney on the date of [DATE], at [ADDRESS, COUNTY, STATE].

[NAME]

Statement of Witnesses

I hereby declare under penalty of perjury that the person who signed or acknowledged this document is personally known to me (or proved to me on the basis of convincing evidence) to be the principal, that the principal signed or acknowledged this durable medical power of attorney in my presence, that the principal appears to be of sound mind and under no duress, fraud, or undue influence. I am not the person appointed an agent by this document. I am not related to the principal by blood, marriage, or adoption. I would not be entitled to any portion of the principal's estate on the principal's death. I am not the attending physician of the principal or an employee of the attending physician. I have no claim against any portion of the principal's estate on the principal's death. Furthermore, if I am an employee of a health care facility in which the principal is a patient, I am not involved in providing direct patient care to the principal and am not an officer, director, partner, or business office employee of the health care facility or of any parent organization of the health care facility.

[WITNESS]

[WITNESS]

Subscribed and sworn to before me on [DATE].

Notary Public, [COUNTY, STATE]

My commission expires_____.

LEGAL PAPERS

(Insert copies of important legal papers, such as:
Custody, guardianship, or advanced directives forms.)

