

You may not control every moment—but you can prepare for the ones that matter most.



## The Truth About Competency & Control: Who Decides When I Can't

**Moderator:** Becky Seda - CSHP, Seda Real Estate Group

**Guest Experts:** Shannon Lane, Attorney with Seda Law

Mike Giese, Owner of Purview Life

Cheryl Beaver, Senior Advisor with Compass Senior Living Solutions

### FIRST THING FIRST:

1. Who would speak for me medically if I couldn't?
2. Who would manage my finances? Do they know where everything is?
3. Have I clearly communicated what I would want?
4. Do I have legal documents in place & are they accessible?
5. If something happened tomorrow... would my family have clarity or confusion?

## DECISION MAKING CAPACITY

- A **clinical determination** that refers to whether a patient has the mental capability to:
- Understand relevant information,
- Appreciate the medical situation they are in and its possible consequences,
- Reason through risks, benefits and alternatives of treatment options, and
- Communicate a choice freely and voluntarily based on their own values.

***Only adult patients with decision-making capacity are able to provide informed consent.***

## COMPETENCE

- A **legal term** that is used to indicate whether a person has the legal authority to make their own decisions related to their medical care, their finances and other personal choices.
- ***Judges are the only ones who can rule that a person is legally incompetent to make decisions for themselves and to appoint a guardian for decision-making.***

## POWER OF ATTORNEY (POA)

- A power of attorney is a written legal document that must be signed by you, the principal, while you are mentally competent. It grants your chosen agent the authority to act on your behalf in the areas specified in the document. Depending on your needs, you can create a power of attorney that takes effect immediately or only under certain conditions, such as incapacity.
- Automatically ends upon your death. At that point, your agent no longer has authority over your affairs, and the management of your estate typically falls to **your executor or personal representative**. *If you have not designated someone to handle your estate, a court may appoint an administrator to oversee the process.*

## GUARDIANSHIP

- A **court-ordered** relationship where a designated person (guardian) is appointed to make personal, financial, or medical decisions for an incapacitated adult who cannot care for themselves. This legal process aims to protect the health and safety of the ward, requiring court approval, and is often considered a last resort when less restrictive alternatives are not available.

# NOTES

## **WHAT YOU CAN DO NEXT**

- Schedule a consultation to start an estate plan if you haven't already
- Talk to your family about what you really want
- Make sure the person who is appointed to make decisions for you knows where everything is

