

## **HIPAA Authorization As Part of an Estate Plan**

You may think that an adequate estate plan consists of a will or living trust coupled with a durable power of attorney and a healthcare power of attorney and living will. There is now an additional estate planning document that you may need to have for a more complete plan. This additional document is what is known as a HIPAA Authorization and could make a big difference in the quality of care that you receive.

All of these forms may sound confusing in their name and actual purpose, but HIPAA is an abbreviation for an act of Congress concerning health care records. HIPAA stands for Health Insurance Portability And Accountability Act. HIPAA was enacted by Congress to increase medical privacy for individuals. There was a concern that medical records were too easy to access and could fall into the hands of the wrong individuals. Once in the hands of these individuals the information could be used for wrongdoing to exploit the patients. Congress made the act to enhance the privacy of medical patients and severely restrict who could access a patient's medical records. Every medical provider, whether it be a hospital, doctor's office, or clinic must have written authorization to release medical records to anybody that is not the patient including a spouse or other family members.

The U.S. Department of Health and Human Services has recently imposed multimillion dollar penalties on medical providers that have violated the act. Healthcare providers have clamped down on who can access records to prevent liability and future payouts in lawsuits. So now it is more important than ever to plan for the act as part of an estate plan. This would come into play if you were to become incapacitated and unable to speak for yourself. An adequate estate plan must have a person in place to make medical decisions for you. The person you name must be able to access all of your medical records to be able to make the best health decisions for you. Most states have a Healthcare Power of Attorney form that includes a HIPAA release provision that allows the appointed agent access to medical records. This is so the agent will have access to all information that might be necessary to make a healthcare decision for a principal that is no longer able to speak for themselves. It also may be necessary to fill out a separate HIPAA release form for additional family members to have access to medical records that may not be a named agent under the Healthcare Power of Attorney. Healthcare providers can be more accepting to releasing medical records if they see a HIPAA release.

Evan Guthrie Law Firm is licensed to practice law throughout the state of South Carolina. The Evan Guthrie Law Firm practices in the areas of estate planning probate personal injury and divorce and family law. For further information visit his website at <http://www.ekglaw.com>. Evan Guthrie Law Firm 164 Market Street Suite 362 Charleston SC 29401 843-926-3813