**Diminished Capacity Documentation/ Next Steps**

*Per the CIR Compliance Manual*

**Diminished Capacity**

Diminished capacity occurs when an individual becomes medically incapable of reaching the mental state required to make sound decisions. This may be the result of disease, injury or genetic factors. As a financial professional, some proactive steps when dealing with a client with potential diminished capacity include:

* **Contact the Trusted Contact Person**
* **Documentation** – whenever there is a known risk you should be extra vigilant in documenting conversations. Feel free to write up a summary of your meeting for the client to sign.
* **Require Written Instructions** - ask your client to put all of their instructions and important communications in writing. This documentation will enable you to provide proof of the client’s intent should the client, or their heirs, later ask questions or not remember.
* **Involve a Third-Party** - ask the client if they would like to bring someone else in to help make financial decisions. This additional player could be a family member, trusted confidante, or any person with whom the client feels comfortable discussing their finances. Please remember that you are prohibited from discussing the client’s account with a third party without the client’s explicit permission. Any communication with a third party must be done in the presence of the client, unless written permission is on file.
* **Power of Attorney (POA)** – encourage your client to establish someone as their durable POA. Once a POA is established it is usually best to involve both the POA and the client, if possible.
* **Termination** – finally, you do have the option of terminating your relationship with the client. Financial professionals are often reticent to use this option, but if a client’s choices are putting December 7, 2020 Page 139 of 283 your business at risk, it may be the best thing to do. Feel free to contact your supervisor or Cambridge’s Disclosures and Dispute Resolution Team ([disclosures@cir2.com](mailto:disclosures@cir2.com)) if you would like to discuss this option.

**RESOURCES**

**Diminished Capacity: A Guide for Helping Clients with Diminishing Capacity**

<https://www.cir2.com/business-resources/compliance-resources/compliance-resources/diminished-capacity/>

[Compliance Manual](https://www.cir2.com/content/dam/cir2/documents/compliance/Compliance_Manual.pdf) (< click)

**Diminished Capacity** (bottom of page 138)