**Consent vs. Undue Influence: Subject Areas to Explore**

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| **Consent** | **Undue Influence** |
| * Does client have capacity to make a gift? * Health status? * What did client understand s/he was agreeing to do * Whose idea was the gift/transaction? * What was client told about the transaction? * Were any promises made? Threats? * Any misstatements/lies told? * How will the client survive/manage/live in light of the transaction? Why did client agree to the transaction? * What did client think would happen? * Has decision affected client’s life? Life of family members who are affected by “consent” | * What role does A/P/POI play in client’s life? How long has client known A/P/POI? What does A/P/POI do for client? * How did the relationship begin? Progress? * Did client have time to think over the transaction? Was client “rushed to act”? * Whose idea was the transaction? * With whom did client discuss the transaction? With whom does client usually discuss such decisions? * How recently has client had contact with family/friends? Is there a reason client have not seen them for so long? * Were promises made? Threats? * Who drew up the paperwork? Is that client’s usual attorney/advisor? Who selected this person? * Did client have the opportunity to consult with a neutral third party? * Does client understand the transaction? * What events preceded the discussion about the transaction? * What are the relative benefits to client and A/P/POI? * Have there been other “gifts” or transactions with the A/P/POI? * Prior plan for disposition of house or other asset given to the A/P/POI? Prior wills, trusts? * Changes in relationship with person who had been expected to get the asset? * Did client have the opportunity to consult with a neutral third party? * Does client understand the transaction? Was the transaction fully explained? |