

Estate Planning Checklist: Something to Consider Before Sending Your Child Off to College

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Before you pack the car and bring your student to their new home at college, there is an important bit of estate planning each family should consider. At the age of eighteen, a child becomes a legal adult. Therefore, in most circumstances, parents of college aged children are no longer authorized to obtain information about their child's medical care or finances. We suggest that young adults consider signing a Power of Attorney and Advance Directive for Health Care. While this is an exciting time of new-found independence, in the unlikely event of an emergency, adult children may still want or need their parents to have authority to act on their behalf.

A Durable Power of Attorney allows the Agent, which for college aged individuals is typically a parent, to access bank accounts and act for them as to any legal matters. While your child has proved that they are responsible by their many successes to date, not least of which was being admitted to their chosen college, it behooves families to consider what would happen in the event of an emergency. A Power of Attorney gives parents the ability to write checks, pay bills, and otherwise step in and manage affairs for their child, should the need arise.

One of the main purposes of the Healthcare Insurance Portability and Accountability Act ("HIPAA") is to protect the privacy of medical records and restrict access to an individual's personal medical information. Through an Advance Directive for Health Care, the principal appoints someone as Health Care Representative and grants that Representative access to medical records and the authority to make medical decisions for the principal, in the event they are unable to communicate with their medical providers. Without signing this document, medical professionals, including those at a school infirmary, would not be authorized to discuss medical care with a student's parents. This is obviously problematic should a student become ill or injured and unable to communicate. In the event of a medical emergency, without a designated Health Care Representative, parents may be forced to petition a court to be granted authority to make decisions for their child. Taking the time to execute an Advance Directive will avoid this stress.

Parents should have a conversation with their adult children about why these two documents are important and if this is something the family wants to check off their back to school list.

If you would like to address preparing one of these documents with your child, please contact Mary Joan Kennedy or Nino Coviello of Saiber LLC's Estate Planning & Administration practice.