

Is Your Child College Bound? Don't Forget These Important Estate Planning Documents

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Turning eighteen is more than another important birthday: it marks when a child becomes a legal adult and new legal considerations for parents and children arise. In most circumstances, parents of college-aged children are no longer authorized to obtain information about their child's medical care, educational records or finances. The Health Insurance Portability and Accountability Act ("HIPAA") and the Family Educational Rights and Privacy Act ("FERPA") can both create privacy barriers for parents once a child becomes an adult. However, to allow parents to help their children throughout college, we suggest that young adults consider signing a Power of Attorney, an Advance Directive for Health Care, and a FERPA release or consent form. While this is an exciting time of newfound 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, 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 Health Insurance Portability and Accountability Act ("HIPAA") is to protect the privacy of medical records by restricting covered entities from disclosing an individual's protected personal health information without authorization. A signed HIPAA authorization form, either included in an Advance Directive for Health Care or in a separate form, allows a student to authorize parents or other designated individuals to receive medical information. The Advance Directive is the vehicle through which the principal appoints someone as Health Care Representative and grants that Representative the authority to make medical decisions for the principal if the principal is unable to communicate with medical providers. Without these documents, medical professionals, including those at a school infirmary, may not be authorized to discuss medical care with a student's parents, and parents may need to petition a court to obtain authority to make health care decisions for their child. Taking the time to execute both documents can avoid this stress.

The Family Educational Rights and Privacy Act ("FERPA") transfers control of education records from parents to the student when the student reaches age eighteen or enrolls in a postsecondary institution. As a result, parents generally can no longer access grades, transcripts, financial aid information, or disciplinary records without the student's written consent. Families should consider having their student sign a FERPA release or consent form with the college or

university, authorizing the school to share educational records with designated family members. Some schools provide their own FERPA waiver forms during orientation or enrollment, so families should check the school's requirements in advance.

Families should also discuss several other age-of-majority considerations. Once a child turns 18, custodial accounts under the Uniform Transfers to Minors Act or Uniform Gifts to Minors Act (UTMA/UGMA) typically must be transferred into the child's name, so parents should discuss responsible financial management and consider whether the young adult should add a parent as an authorized user or joint account holder for practical purposes. Families may also wish to include digital asset provisions in the Power of Attorney so that a trusted person can access email, social media, cloud storage, and other online accounts if needed. At age 18 or when the child ceases to be a full-time student, there may be changes to the family's tax filing, so parents should consult their tax advisor about the student's dependency status, any applicable dependency exemption, education credits, and whether the student should file independently. Finally, families should review health insurance coverage: under the Affordable Care Act, children generally may remain on a parent's health insurance plan until age 26, but the young adult should understand their coverage and carry proof of insurance; auto insurance, renters' insurance, and other policies may also need to be reviewed.

Parents should have a conversation with their adult children about why these documents and steps are important and consider making them part of the high school graduation or college preparation checklist. That conversation can cover the Power of Attorney, Advance Directive for Health Care, HIPAA authorization, and FERPA release, as well as the transition of financial accounts and a review of insurance coverage. While this is an exciting time of newfound independence, taking these practical steps together can help families be prepared for the unexpected.

Contact Nino Coviello or Mary Joan Kennedy of our estate planning team to make an appointment to discuss your adult child's estate planning documents.