

RESOURCES

Other Items to Include on the College Checklist: Powers of Attorney for Young Adults

Every year thousands of young adults graduate high school and head off to college. As parents help their children run through the checklist of items needed for college, the last thing on anyone's list is then need for the child to have legal powers of attorney prepared. However, as discussed in the remainder of this article, these documents can be very important if the need arises.

In North Carolina, powers of attorney are statutory documents (authorized by Chapter 32A of the North Carolina General Statutes) that allow an individual to designate a third party to act as their legal agent. There are two main types of powers of attorney, a Durable Power of Attorney (DPOA) and a Health Care Power of Attorney (HCPOA).

A DPOA, often called a financial or general power of attorney, is typically thought of as granting your agent the ability to handle your financial affairs on your behalf. However, the powers granted under a DPOA are very broad and essentially give your agent the ability to handle anything that you can do legally. This includes everything from making monetary gifts, to banking transactions, to managing your brokerage account, to buying and selling a house, to entering into contracts on your behalf, to handling your legal affairs. It is important to keep in mind that your agent's authority is typically granted the moment the document is signed. Thus, it is important to choose an agent you trust and maintain possession of the document until you are ready for your agent to act on your behalf.

As the name suggests, a HCPOA grants your agent the ability to handle all aspects of your health care. However, unlike a DPOA your agent's authority under a HCPOA only arises when your physician has determined that you lack sufficient understanding or capacity to make or communicate decisions regarding your health care. Unless limited, a HCPOA grants your agent broad authority to make decisions concerning your health care. This includes authorizing medical or mental health treatment for you, receiving and reviewing your medical records, making decisions regarding life prolonging measures, and even making decisions regarding organ donation and the disposition of your remains.

Typically, DPOAs and HCPOAs are thought of as documents for elderly persons who are in need of assistance. In reality, both documents are applicable to all adults at any age. Because young adults are healthy and active, the need for a power DPOA or HCPOA is often overlooked. However, it is easy to forget that once a child turns eighteen (18) that child's parents no longer have the ability to handle his or her financial affairs or make health care decisions (or even receive information about financial or health care issues).

This presents a particular concern for young adults as they go off to college and move out of their parent's house for the first time. Parents often overlook the fact that they no longer have the ability to handle their children's financial and medical affairs in the same manner they have grown accustomed to doing.

Take for example a situation where Son attends college in California. While in school, Son decides to sell his car to raise additional money for college. However, Son's car is at home with Mom and Dad in North Carolina. Absent a DPOA naming Mom and Dad as Son's agent, Son would need to travel back to North Carolina to sign all of the necessary paper work to complete the sale. On the other hand, with a valid DPOA in place Mom and Dad can act on Son's behalf to complete the sale and can even deposit the proceeds in Son's bank account.

Similarly, imagine a situation where Daughter is severely injured while away at college. The hospital may call her parents to notify them of the her injury, but absent a HCPOA naming Mom and Dad as Daughter's agent, her parents will not be able to make any health care decisions or participate in her medical care. This can leave the

parents feeling helpless and is clearly detrimental to Daughter's wellbeing.

Both of these situations can be easily avoided by encouraging college bound adults to execute a DPOA and HCPOA. When doing so the child will often name his or her parents as co-agents, thus allowing either parent to act on his or her behalf when necessary. With a DPOA and HCPOA in place, then in the unlikely event Daughter has a medical emergency, or if Son needs help selling his car, Mom and Dad can still provide the help and guidance that they are accustomed to providing.

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