

Happy 18th Birthday! Your College-Aged Child is an Adult. Now What?

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Believe it or not, as of your child's 18th birthday, your child graduated from being a 'minor' to becoming a 'legal adult.'

While your child is home from college this summer or preparing to head off to college in the fall, I have some homework for you: make sure he or she has essential legal documents in place before going

back to school!

Turning 18 years old has legal implications that most people don't realize. Importantly, your ability to access information about your child will now be limited, even in the event of an accident or illness — even though you've raised that child for the past 18 years and still may be supporting the child financially! Without certain legal documents, you could be in the dark and unable to make important medical and financial decisions for your incapacitated child in a timely manner. As unpleasant as it is to think about, making sure your child has the following basic documents now is better than facing an emergency situation unprepared later:

- **Health Care Power of Attorney.** A health care power of attorney is a document signed by your child that nominates a trusted person, usually a parent, to make health care decisions in the event that your child becomes incapacitated. Without this document, decisions about your child's medical treatment will be made by the doctor or might involve petitioning the court for a guardianship – an expensive and cumbersome process.
- **HIPAA Authorization.** The Health Insurance Portability and Accountability Act of 1996 ("HIPAA") protects an adult's private medical information from being released to third parties without the patient's consent. Since your child is now a legal adult, a doctor legally cannot, and frequently will not, discuss your child's medical information with you. A HIPAA authorization waives this protection so that you can discuss your child's medical situation with the child's doctor in appropriate circumstances.
- **Durable Power of Attorney.** A durable power of attorney naming you as your child's "attorney-in-fact" will let you step in and handle your child's financial matters when the child is unable. You might be paying tuition or handling bills as an authorized party anyway, but the durable power of attorney provides actual legal authority for you to act.
- **Basic Will.** As your child goes out into the world and hopefully starts earning a living, or otherwise has assets in his or her name, your child should sign a simple will to direct the disposition of his or her assets and name someone to handle final affairs, in the event of death. Without a will in place, the disposition of your child's assets would be controlled by state law.

For further information regarding the issues described above, and whether these documents are appropriate in your circumstances, please contact one of the attorneys in our Trusts and Estates Practice Group.

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