

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

Written By **Virginia S. Carter** (vscarter@wardandsmith.com)

May 22, 2020



Believe it or not, as of your child's 18th birthday, your child is an 'adult' in the eyes of the law.

Turning 18 years old, however, has important legal implications that most people do not realize: your ability to have input into decisions for and access information about your child is limited, even in the event of an accident or illness. To continue to be there for your adult child and be

able to help your child in the event of a health or other emergency, you should ask your child to sign basic estate planning documents.

Without these basic legal documents, you could be in the dark, unable to make important medical decisions and manage financial affairs for your child in a timely manner. As unpleasant as it is to think about, making sure your child has the following five basic documents now is better than facing an emergency situation unprepared later. Everybody should have the following:

1) Health Care Power of Attorney

Ask your child to sign a health care power of attorney that nominates a trusted person, often a parent, to make health care decisions in the event that your child becomes incapacitated. Without this document, you lack legal authority to make decisions about your child's medical treatment without court involvement.

2) Living Will

A living will is a related document that addresses end of life decisions.

3) 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. If your child is a legal adult, a doctor cannot, and frequently will not, discuss your child's medical information with you. Ask your child to sign an HIPAA authorization to waive this protection so that you can discuss your child's medical situation with the child's doctor in appropriate circumstances.

4) Durable Power of Attorney

Ask your child to sign a durable power of attorney naming you as your child's "attorney-in-fact" to allow you to

handle your child's financial matters when the child is unable. You may already be paying tuition or handling bills as an authorized party on your child's accounts, but the durable power of attorney provides actual legal authority for you to act.

5) 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 basic 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.

Our Essentials Package

Ward and Smith offers a fixed-price "Essentials Package" of the five key estate planning documents every adult should have. It is an easy to use, online based platform for the preparation of basic estate planning documents, from a source that you trust. Although the Essentials Package is not the same as our typical comprehensive estate planning crafted to meet our clients' specific goals and needs, it is well-suited to provide a parent with authority to assist an adult child in appropriate circumstances.

Conclusion

Whether you source these key estate planning documents from Ward and Smith, or elsewhere, we highly recommend you do not delay this project. Attorneys in our section have seen many heart-wrenching circumstances impacted by lack of planning and documentation. That is a situation best avoided.

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

--

© 2024 Ward and Smith, P.A. For further information regarding the issues described above, please contact Virginia S. Carter.

This article is not intended to give, and should not be relied upon for, legal advice in any particular circumstance or fact situation. No action should be taken in reliance upon the information contained in this article without obtaining the advice of an attorney.

We are your established legal network with offices in Asheville, Greenville, New Bern, Raleigh, and Wilmington, NC.