

Publications

Don't Forget These Important Legal Documents for Your College-Bound Child

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Colleges and universities across the country are considering what to do this fall amid the coronavirus pandemic. Some have announced their intention to reopen campus as usual, while many others continue to keep students and faculty in limbo and evaluate their options.

Regardless of how these institutions decide to proceed, it is clear that this pandemic has caused many parents to consider certain legal aspects relating to their adult, college-bound children. For example, how can a parent take actions on behalf of an adult child if such child is unavailable or unable to do so? Also, how can a parent obtain health care information about an adult child if he or she gets sick at school? These problems can be easily solved with a few legal documents.

Durable Power of Attorney

With a properly drafted durable power of attorney, children can designate their parents as their agent to handle a variety of financial transactions. Such transactions can include opening and closing bank accounts; depositing and withdrawing funds from existing bank accounts; preparing, signing and filing income tax returns; renewing a passport; signing an apartment lease; renewing automobile and other vehicle licenses; and responding to a jury summons.

Without such a power of attorney, parents have no legal ability to transact business on behalf of their adult children. If your child is at school many hours away, he or she may not be able to return home on short notice to handle unforeseen matters. Improperly signing your child's name to any document is forgery and should be avoided.

Health Care Power of Attorney

With a properly drafted health care power of attorney, children can designate their parents as their agent to make health care decisions for them if they are unable to make decisions on their own. Again, without such a power of attorney for health care, parents have no legal ability to make any health care decisions for an adult child, and they will be

forced to establish a legal guardianship in the Probate Court in order to obtain the legal authority to make such decisions.

As a result of a change in Ohio law, a health care power of attorney can now be prepared to give an agent (i.e., a parent) immediate access to most protected health information of the principal (i.e., adult child) under the Health Insurance Portability and Accountability Act (HIPAA). In other words, a properly drafted health care power of attorney can now authorize an agent to have access to protected health information that is not conditioned upon a loss of capacity.

Better Safe Than Sorry

We are hopeful these documents can be signed and never needed. But this pandemic has proved that unforeseen circumstances can arise at any time. These are simple steps that parents can implement now that can solve significant problems in the future. As Ben Franklin stated several years ago: “an ounce of prevention is worth a pound of cure.”

Please call your Vorys estate planning lawyer if you would like to discuss these matters further.