

Publications

Helping Your Child Pack For College? Don't Forget The Legal Matters!

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Legacy

The following article was featured in the May 2016 edition of *Legacy*, the Vorys newsletter focused on wealth planning.

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Many parents across the country will soon be preparing to take their adult child to college. Many hours have been spent preparing for the drop off day, purchasing supplies, registering for classes and meeting roommates over the internet. Even more planning occurred in determining how to finance the child's education.

However, even the best planners might not have considered the **legal** aspects of the day. For example, how can mom or dad deposit that last paycheck of the summer into the child's bank account or sign and file the child's income tax return? Also, how can mom or dad obtain health care information about the child if he or she gets sick at school? These problems can be easily solved with a couple legal documents.

Durable Power of Attorney

With a properly drafted durable power of attorney, an adult child can designate mom and/or dad as his or her 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 for students interested in studying abroad; signing an apartment lease; renewing automobile and other vehicle licenses; and responding to a jury summons.

Without such a power of attorney, mom and dad have no legal authority to transact business on behalf of their adult child. If your adult 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 adult 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, an adult child can designate mom or dad as his or her agent to make health care decisions for him or her if such adult child is unable to make such decisions. Again, without such a power of attorney for health care, mom or dad have no legal authority to make any health care decisions for an adult child, and they will be forced to establish a legal guardianship in the Probate Court 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., mom or dad) 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.

Getting the Documents Signed

Some adult children may think that mom and dad are clueless, and they might simply roll their eyes at the mention of these documents. You might consider having your Vorys estate planning lawyer meet with you and/or your adult child to explain the significance of these documents.

Hopefully, these documents can be signed and will never be needed. But unforeseen circumstances can arise and accidents can happen to anyone. In such circumstances, both you and your adult child will be very happy that you made a relatively inexpensive investment in putting these legal documents in place.