

ESTATE PLANNING FOR COLLEGE-AGED CHILDREN

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This time of year, many parents with a college-aged child are squeezing in last-minute vacations, back to school shopping and other activities before their child returns to college or starts first semester. However, one component that is often overlooked is to ensure adult children have adequate estate planning in place to address their financial and medical decision-making needs.

People generally understand the importance of appointing trusted individuals to act on their behalf in times of need during their life and during the administration of their estate after death. However, far too often these decisions are made later in life, if at all. Consequently, after a child becomes an adult (turns 18 in most states), there is an opportunity to inform your young adult child about the importance of having an estate plan in place to address these needs.

Therefore, we suggest that you discuss with your child the importance of forming an estate plan. Please review the following guide to inform your adult children on basic planning issues and steps to take upon turning age 18.

Health Care Essentials. At age 18, in most states, a person becomes his or her own sole health care advocate. This means that parents no longer have the health-care decision making power or access to medical information that they had when the child was a minor. In practice, this primarily necessitates the preparation of the following documents:

- **Medical Directives.** Sometimes called an Advance Medical Directive, Health Care Proxy or Health Care Power of Attorney, this document names the parent(s) as “medical agent” for the child and, if the child becomes medically incapacitated, gives the parent authorization to make medical decisions on the child’s behalf.
- **Living Wills.** This document outlines a child’s directives for medical care during incapacity. For instance, the directive can convey the child’s wishes for life-sustaining measures in the event the child could no longer make such decisions themselves.
- **HIPAA.** It is crucially important for parents to access a child’s medical records; thus, a separate HIPAA waiver (Health Insurance Portability and Accountability Act) form should also be prepared. Without this form, HIPAA may prevent a medical professional from sharing medical information, including medical status – even with parents.

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Financial Management. In most states, parents also lose the right to manage their child's money when the child turns 18 – even if the parent is paying the child's college tuition. Thus, it is important for your child to establish a Power of Attorney for two primary reasons:

1. Doing so authorizes parents to manage the child's finances, acting on his or her behalf, in the event that the child were to become incapacitated and unable to make decisions themselves.
2. A durable power of attorney for property also gives parents the right to act on a child's behalf when the child is, for instance, traveling abroad, and sign documents such as tax returns or leases on the child's behalf while the child is away at school.

Will Planning. Although most people think about setting up a will when they are well into adulthood, it may make sense for your child to execute a will now for several reasons. The most pressing reason may be in the absence of a will, your child's assets pass according to state intestacy laws (usually to parents if there is no surviving spouse or any children) and may have the effect of undoing prior intergenerational wealth transfer planning in place.

If you would like to discuss the fairly simple process of preparing an estate plan for your young adult child, please reach out to your Wiggin and Dana attorney.

This publication is a summary of legal principles. Nothing in this article constitutes legal advice, which can only be obtained as a result of a personal consultation with an attorney. The information published here is believed accurate at the time of publication, but is subject to change and does not purport to be a complete statement of all relevant issues.