



# Why College Parents Should Consider a Power of Attorney

Are you preparing to send a child off or back to college? Dorm room decorations, getting the car serviced, and just about every other worry about your “little one” heading off on their own may be passing through your mind. However, one item often overlooked is that your college age children are over 18, and therefore are adults in the eyes of the law. That has some significant legal ramifications many don’t consider.

Imagine you get a call from your child’s roommate to find out that your child is being rushed to the emergency room for some unknown condition. When you call the emergency room to find out what’s going on, they most likely won’t speak to you about your child’s condition. Given your child is an adult, you have no legal rights to know what’s going on with them, even if it’s your insurance coverage being used to pay for treatment. Medical professionals are bound by the privacy rules of the Health Insurance Portability and Accountability Act (commonly known as “HIPAA”), which means they generally can’t share a patient’s private medical condition without the patient’s consent.

You can avoid this unbearable dilemma by having your child sign a health care power of attorney containing a HIPAA disclosure authorization (Note: Some states may require two documents to achieve this goal). In this power of attorney document your child names you as their agent-in-fact for medical decisions and allows you access to medical information about their care. This allows you to participate in the care decisions regarding your child. Without it, it’s likely the doctor will treat you like a

stranger when it comes to medical information and decisions.

Financial matters can also be a concern. It’s not always possible for a parent to get tuition or room and board details from the school without the child’s consent. If your child runs into trouble with a credit card company, that company won’t speak to you since you are not the card holder. Having a financial power of attorney where your child grants you access to such information can help relieve any potential tensions. Of course, this may also grant you access to grades and other information your children may not want you to have, so you will need to balance your children’s desire for privacy with your desire to be able to provide assistance.

For both health care and financial powers of attorney you can elect that they are “durable” (meaning the power is granted to the agent immediately and the agent’s authority survives any eventual incapacity of the grantor) or “springing” (meaning some action, typically a doctor declaring the grantor to be incapacitated, must occur before the agent has authority to act). Most planners use durable powers



## Estate Planning

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of attorney to allow swift transitions of responsibilities when necessary.

Generally, you want to execute these powers of attorney in your home state. However, if your child is attending school out of state, you may also want to consider executing powers of attorney based on that state's law as well. Some colleges also provide power of attorney forms for their students and parents. While many states have online forms for powers of attorney, consider engaging an experienced estate planning attorney when making these legal decisions.

Last, retain copies of these documents in a place that you can retrieve them easily should the need arise. In fact, some states are willing to accept photo or digital copies, so scanning the items into your tablet or smart phone may be something to consider as well. Of course, your hope is to never use these power of attorney documents. However, without the proper documentation, you may be left in the waiting room of that hospital without any idea what's going on with your child. Be proactive and consider whether a power of attorney plan makes sense for your family.

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