

Don't Be Caught Legally Blind! When Your Child Goes Off to College

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Commencement signals the beginning of a new start for graduating high school seniors. As proud parents, we replay 18 years of memories, time invested, experience and love as we tried our best to prepare children for college and adulthood.

For many of us, we worked feverishly throughout senior year, side by side with our children, visiting college campuses, completing FAFSA forms, and preparing for our children to leave the nest they call home.

Unbeknownst to many parents is once your child does reach age 18, you no longer have any legal authority over your child. While many parents jokingly state they can control their children through the checkbook, the ultimate threat of withholding funds to ensure our children comply with our wishes, the reality is that colleges, doctor's offices, hospitals, banks, and credit card companies (basically all arrangements our children make

on their own) are legally obligated not to deal with us. Many parents reason that as long as a child is a financial dependent and can be legally listed as such on their tax return, the parents must have some right to information about their children. Sounds logical, but the law sees it differently.

HIPPA and other regulations keep parents in the dark, which can be dangerous for both children and their parents. Imagine if your child is at college, becomes sick, and is rushed to the hospital. As parents we cannot intervene. Scary thought, isn't it? But our lack of rights to information about our children isn't limited to medical care and treatment. Let's assume you feel your child is struggling at college and want to discuss their situation with college administrators. As a parent you are barred from obtaining any information, even your child's grades, unless permission is granted by your child. In fact, many parents go all four years without actually seeing their child's college grades.

This can be a frustrating and confusing transition for parents. While we understand that college-aged children are considered adults, more often than not, they are our financial dependents and they are certainly still our children. But the law sees them differently. Legally, they are on their own. So even though we may have a substantial investment in our children and

may be paying a great deal in tuition, we are helpless to assist our children when they may need us the most.

Lucky there are steps we can take which are not any different than the steps parents take to ensure they can speak for one another when needed. A basic part of estate planning is ensuring powers of attorney are in place to allow spouses to speak for one another in the event of an emergency. Parents can implement the same strategy with their adult-aged child by having them sign:

1. **Medical Power of Attorney**, allowing parents to be involved with a child's medical care in the event of an emergency.
2. **General Power of Attorney**, allowing parents to be involved in financial and other non-medical issues on behalf of a child in the event of emergency. [Note: we do recommend specific language be added to a General Power of Attorney specifying the parents' ability to deal with college officials regarding matters involving their child. For example, a child waiving their rights under FERPA (Family Educational Rights and Privacy Act)]

These two legal documents will enable you to help your child in the event of an emergency as well as remain involved as necessary in other matters such as speaking with college administrators.

While your child is financially dependent on you, many parents feel this provides them with adequate leverage to coerce a child into signing these documents. Please keep in mind that your child has the right to revoke the Powers of Attorney at any time and without your knowledge and consent.

All successful relationships are based on mutual trust and respect. The approach we recommend is to use the marital relationship as an example in explaining the benefits of having a trusted family member legally designated to come to their aid in the event of an emergency or when they simply need help. Most young adults are not aware of the legalities that can bar parents from helping them. This may help your child view these documents in a positive light and not as an infringement on their privacy or a way for their parents to spy or otherwise meddle in their "personal" affairs. Instead, they're able to see the wisdom in giving their parents Powers of Attorney and will voluntarily agree to sign these documents versus the threat of being "cut off."



Feel the confidence that you and your child are prepared for a great start to their college journey.

Ultimately, any relationship based on mistrust and coercion will not last long and, in this case, will most likely result in the documents being revoked. This same strategy applies to children who do not go off to college but live on their own; and to single adult children of any age if they do not have a significant other to step forward in the event of an emergency to advocate for them. Consider discussing the benefits of having these documents in place for their safety and protection.

We do recommend that these documents, which are normally drafted by an attorney, be signed and notarized. A copy should be kept with you in a safety deposit box, one filed with the college your child is attending, the local hospital where the college is located, the local hospital where you reside, and a final copy with your attorney.



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