

The first legally significant milestone you celebrate with your adolescent child occurs when he turns 18 and registers to vote. You discuss that voting is a privilege and that it is important to vote in every election, local or national. Then reality sets in - your child is considered an adult and he is in charge of his future, which may include college, a gap year travelling the world or entering the work force. Many parents embrace this milestone without considering that they no longer have any parental rights.

Health Care Proxy/Declaration

What happens if you receive a call from your son's roommate that he has been injured and is in the emergency room? You immediately call the hospital and are shocked to be told that because your son is 19, the hospital cannot legally speak to you about his medical condition unless you are his health care agent or proxy. This is due to the Health Insurance Portability and Accountability Act (HIPAA), which provides safeguards to protect the privacy of personal health information. Physicians and nurses are hesitant to discuss the medical condition of an adult with anyone who has not been authorized, in writing, to receive this information.

This is why it is important for every adult to execute a relatively simple legal document referred to as a Health Care Proxy or Declaration. A Health Care Proxy/Declaration allows an individual your child appoints as his or her health care agent to be informed of their medical condition and make medical decisions on their behalf if they are unable to make them or communicate them for themselves. The document is crucial because it identifies the person whose direction is to be followed regarding his or her medical care. This is especially critical in the event that family members disagree about medical treatment. The individual designated as the health care agent should be someone your son or daughter knows well and trusts. It is important that the chosen proxy should be comfortable making medical decisions and interacting with physicians and nurses. Also as a general rule this document should be updated every three to five years if possible.

Durable Power of Attorney

Another important document to encourage your adult child to execute is a financial Durable Power of Attorney. This document allows an individual your son or daughter appoints (referred to as their attorney-in-fact) to make financial decisions on their behalf in the event of their incapacity. The primary purpose of this document is to prevent the appointment of a conservator by the court to manage their finances should they become incapacitated.

There is a misconception that this document is not needed until the young adult begins working and begins to accumulate some assets. This is not necessarily accurate. Let's assume your daughter is enrolled in a semester abroad program at her university. What if one day you receive financial aid paperwork that requires her notarized signature? What if it is the spring semester and she has to file her federal and state income tax return?

Having a Durable Power of Attorney for financial matters in place would enable your daughter's attorney-in-fact (perhaps you) to sign these documents on her behalf. Similar to a Health Care Declaration/Proxy, this document should also be updated every three to five years if possible.

Summary

It is estimated that slightly over 4,000,000 children turn 18 each year in the United States.¹ So, after taking a picture on your smart phone of your “child” blowing out the 18 candles on his birthday cake, you should record a note on your phone to remind yourself to discuss the importance of executing a Health Care Declaration/Proxy and a Durable Financial Power of Attorney with your now adult child. You should encourage your child to meet with an estate planning attorney to execute these documents. Depending upon state law, the documents may have to be witnessed by two disinterested individuals and notarized. Finally, keep in mind that the goal is for him to execute these important documents even if you are not named as one of his agents.

¹ www.answers.com

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