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Why Your College-Age Children Need an Estate Plan

They Should Designate Someone to Make Medical and Financial Decisions

By ANNE TERGESEN

Here's an issue many families overlook when children leave for college: That child, in the eyes of the law, is now an adult—and needs some all-important documents.

Once individuals reach the age of majority—18 in most states—their parents are no longer entitled to see their medical and financial records and make decisions on their behalf. As a result, it is important for young adults to set up an estate plan that appoints trusted individuals to make medical and financial decisions in the event they are unable to do so.

Few 18-year-olds consider the need for an estate plan, simply because most have little in the way of property. But if your child were to lose the ability to make or communicate decisions, medical professionals might refuse to consult with or even release information to you, says Christina Vidoli, a Boston-based attorney at Margolis & Bloom, which specializes in estate planning. Without proper documents, parents generally can't access a child's financial accounts, either.

"Parents assume that because they are paying for college or the child is still living under their roof, they have the right to make legal decisions," says Ms. Vidoli. But once individuals reach 18, the law classifies them as adults, with "the legal right to privacy and to govern their own lives."

Brad Wiewel, an estate-planning attorney in Austin, Texas, says two of his clients were unable to secure even basic information about the medical conditions of their college-aged sons following car accidents that left both boys unconscious and in the hospital. After a few days, both sons regained consciousness and gave their doctors permission to speak with their parents. But a third client—whose daughter remained in a coma for weeks—had to sue to become the girl's temporary legal guardian, says Mr. Wiewel. Such proceedings typically cost thousands of dollars, attorneys say.

Like many estate planners, Mr. Wiewel urges clients to prod their adult children to draft basic estate-planning documents on their 18th birthdays. "We call it our college package," he says.

While not every 18-year-old needs a will, all should appoint a trusted friend or relative to serve as their health-care proxy. This person has the authority to make medical decisions in the event the patient is unable to. The child's doctors and proxy should receive a copy of the form, which can be drafted by an estate-planning attorney or downloaded from the Internet. (Search for "health-care proxy" and the child's state of residence.)

Equally important is a release from HIPAA, the Health Insurance Portability and Accountability Act of 1996, which protects patient privacy. This gives medical practitioners permission to share information with those named on the form. (Make sure your child lists his or her health-care proxy.)

It is also important to designate a financial power of attorney. Most lawyers recommend that young adults sign a general power of attorney. In contrast to a "springing" power of attorney, this allows the appointee—frequently, a parent—to access the child's financial accounts at any time, rather than only if he or she is declared incompetent.

With such a document, a parent can pay a child's bills, speak to his or her landlord, or replace a lost debit card whether the child is incapacitated or simply away at college. This document must be updated every couple of years or financial institutions may not accept it.

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