

Don't Be Caught Legally Blind!

*When Your Child
Goes Off to
College*

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High school commencement signals a new start for graduating seniors. It's also a time for proud parents to reflect on 18 years spent preparing children for college and adulthood. For many parents that includes visiting college campuses, completing FAFSA forms, and otherwise preparing them to leave the nest they call home. However, unbeknownst to many parents, once your child turns 18, you no longer have any legal authority over them, including making medical decisions on their behalf or checking their grades once they're in college.

While many parents jokingly state they can control their children through their checkbooks (the ultimate threat to ensure children comply with their parents' wishes), the reality is that colleges, healthcare providers, hospitals, banks, credit card companies, and other arrangements your child may enter into on their own are obligated by law to protect your child's privacy.

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

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. The Health Insurance Portability and Accountability Act (HIPAA) 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 a parent, you can't intervene. Scary thought, isn't it?

The lack of access to information concerning your child isn't limited to medical care and treatment, either. Let's assume you believe your child is struggling in college and you want to discuss their situation with college counselors or administrators. As a parent, you're barred from obtaining any

information, even your child's grades, unless your child explicitly grants permission. In fact, many parents may never see their child's college grades.

This can be a frustrating and confusing transition for parents. While college-aged children are considered adults, many remain financial dependents, and they are certainly still your children. But the law views them differently: legally, they are independent adults. As a result, even when parents have a strong emotional and financial investment in their children's lives, they may find themselves unable to step in when help is needed.

Fortunately, there are steps you can take—similar to the steps spouses take to ensure they can make decisions for one another when needed. For example, establishing powers of attorney (POA) is a fundamental part of estate planning, allowing spouses to act on each other's behalf, as needed. Parents can apply the same strategy with their adult children by having them sign a:

- 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 an emergency. We recommend including specific language in a General Power of Attorney that authorizes parents to communicate with college officials regarding their child, including a statement that the child waives their rights under the Family Educational Rights and Privacy Act (FERPA).**

These two legal documents will enable you to help your child manage through unforeseen circumstances and remain involved, as necessary, in matters such as speaking with college administrators.

Since most young adults are not aware of the legalities that can bar parents from helping them, some may initially view these documents as an infringement on their privacy or a way for their parents to spy or otherwise meddle in their "personal" affairs. Therefore, it's important to explain 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, including the ability to facilitate medical, legal, and financial decisions if they're unable to do so themselves. To help adult children see the wisdom in giving their parents powers of attorney, consider using the example of how married couples empower each other to act on their behalf.



This same strategy applies to children who choose not to go off to college but live on their own, as well as single adult children of any age who do not have a spouse or significant other to advocate for them in the event of incapacity or another emergency. Consider discussing the benefits of having these documents in place for their safety and protection.

We recommend that these documents, which are typically prepared by an attorney, be signed and notarized. Copies should be kept in a secure place, such as a safe or safety deposit box. Additional copies should be provided to your child's college, the local hospital near the college, the local hospital where you reside, and with your attorney.

Finally, keep in mind that once children reach age 18, they are legal adults. Even if they remain financially dependent on you, they retain the right to revoke powers of attorney at any time, without your knowledge or consent.

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