

Legal Essentials for College Students

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It's back to school season. For those with college-aged children, we are sure you have been shopping for dorm room supplies, attending orientation, and traveling a few hours away or even across the country. In short – you have been busy. Maybe you are a new empty nester, or maybe this is your first child in line who is leaving for college. Either way, there may be a few things that have not made it onto your to-do list, including two that we believe can make all the difference: a durable power of attorney (or “POA”) and a health care power of attorney (or “HCPOA”).

When a child turns 18, and becomes a legal adult, their parents are no longer able to automatically make financial or medical decisions for them, which can cause frustrating but avoidable issues and delays. With a durable power of attorney and a health care power of attorney, you and your child can rest easier. Legal documents might not be the first things that came to mind, but we are here to help you cross them off your list.

Durable Power of Attorney

A POA is a legal document authorizing named agents to represent or act on the principal's behalf. For college purposes, a POA can allow your child, the principal, to authorize a parent or parents, or agent(s), to assist them as they learn to manage their finances. This may be the first time your child is in an unfamiliar environment navigating these new responsibilities, on top of figuring out where the dining hall is and how to manage their course assignments. A POA can enable a parent serving as an agent to lend a guiding hand more seamlessly. By working with our estates and trust attorneys to execute a POA to help manage your child's bank account, you can quickly assist your child with new expenses, such as tuition, books, and transportation for social events. Establishing this easy access can help avoid late payments or negative impacts to your child's credit, while also encouraging more thoughtful spending. A POA can also be necessary in the event of an emergency, during which your child may be temporarily unable to manage their finances or sign necessary legal documents.

Generally, a POA must be signed and dated by the principal in the presence of a notary and witnessed by two adults. As a bonus for your peace of mind, the POA takes effect immediately.

Health Care Power of Attorney

Separately, a HCPOA is a legal document authorizing named agents to make medical decisions on the principal's behalf if they become unable to make those decisions. The HCPOA may be crucial if your child suffers a medical emergency, for instance. It can be a beneficial safeguard, as parents may not otherwise have the authority to make certain health care decisions for their child after they have reached adulthood. Having a HCPOA in place can prevent obstacles, such as court proceedings and additional costs, and secure authority to make such decisions.

Generally, unlike a POA, a HCPOA does not become effective immediately, but more often is written to become effective only when a physician deems the principal to be incapacitated. However, we believe it is better to have and never need. As an added benefit, HCPOAs in Pennsylvania typically include a HIPAA release that is effective immediately so that even if the parents are not making medical decisions, they still have access to their child's medical records and are able to discuss a child's health with his or her health care providers.

Getting Started

Requirements for both documents can vary by state. It is always best to consult with an attorney to better understand the laws in not only the state in which you reside, but also the state(s) of any other involved parties, if their residency differs from your own. Once these documents are executed, parents and children alike should keep copies in a secure but accessible place.

The Estates & Trusts practice group is part of Eckert Seamans' Tax, Estates & Employee Benefits Group. We invite you to contact us today to learn more about our full array of estate planning and administrative services.