

Here's Something to Discuss with Graduating Grandchildren

We tend to think of planning for incapacity as an area of law reserved strictly for the elderly or disabled. However, incapacity planning is important for everyone. Insurance statistics tell us that at age twenty, 789 persons out of 1000 can expect to suffer a disability during his or her lifetime. More than a quarter million of young adults between the age of 18 and 25 are hospitalized with serious injuries each year. A 22 year old is 7.5 times more likely to suffer a disability of ninety days or more than to die within one year.

While celebrating the momentous occasion of high school graduation, many families overlook one of the most important things that one should do upon turning 18: planning for incapacity. Grandparents who are more familiar with this type of planning have one more lesson to teach their grandchild upon turning 18 and graduating from high school.

Under the law, the 18 year old is now officially an adult. When a child reaches the age of majority, parents no longer automatically have the power to make financial or medical decisions. Having documents in place before the need arises is critical.

While away at college, if the student becomes seriously ill or injured and loses ability to make decisions on their own, a parent might assume that they could talk to medical professionals and be involved in all aspects of decision-making. However, privacy laws protect the medical and financial information of a child when they reach the age of 18. Parents are no longer allowed to make decisions on their behalf nor are they privy to their child's financial and medical information. This information is private even if the parents are providing all of their child's financial support and even if the child is still living with the parents. If a tragedy strikes and a young adult becomes incapacitated without planning for incapacity, a parent might need court intervention to act.

Thus, it is important for young adults to plan for incapacity and execute the same documents as their grandparents have to put decision makers in place in the event of a period of incapacity. Every college aged student should have the following documents in place: a durable financial power of attorney, a medical power of attorney and a HIPAA medical authorization.

A durable financial power of attorney is a legal document that appoints an agent to represent you in your personal and financial matters. With this document, an agent can stand in the shoes of the young adult and act for him when the need arises.

A medical power of attorney authorizes another person, called a medical agent, to make decisions regarding medical care in the event one is physically or mentally unable to do so. This document would allow a parent to have a voice in the medical treatment of their college-aged child.

A HIPAA authorization allows medical providers to disclose private, personal medical information to people listed in the document. In an unfortunate event, this would allow a parent to quickly access information from healthcare providers.

Once the college aged student puts properly drafted documents in place appointing trusted individuals to make medical and financial decisions, parents and grandparents can feel at peace knowing that if an emergency arises, information can be accessed and decisions can be made. This is an estate planning need that although often overlooked, should be a part of the process of preparing for adulthood and college. And, grandparents, you are the perfect person to get the process started.

You may email your questions to education@wrightabshire.com or visit our website at www.wrightabshire.com. Wesley E. Wright and Molly Dear Abshire are attorneys with the firm Wright Abshire, Attorneys, P.C., with offices in Bellaire, the Woodlands, and Carmine. Both Wright and Abshire are Board Certified by the Texas Board of Legal Specialization in Estate Planning and Probate Law and are certified as Elder Law Attorneys by the National Elder Law Foundation. Nothing contained in this publication should be considered as the rendering of legal advice to any person's specific case, but should be considered general information.