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Legal Insights

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Helping Your College-Bound Child in a Crisis: Legal Documents You Hope to Never Need

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When Sophia left for her freshman year of college, her parents did what most families do: they helped her move into her dorm, stocked her mini-fridge, and said their goodbyes with a mixture of pride and trepidation. What they didn't realize was that the moment Sophia turned 18, they had lost all legal ability to help make decisions about her medical care and finances, even in an emergency.

The Legal Reality at Age 18

When your child turns 18, they become legal adults overnight. Parents lose access to medical records, can no longer make health care decisions, and have no authority over financial matters, even if they're still paying the bills.

This change affects everything from routine medical appointments to emergency situations, and from insurance claims to banking transactions and tuition information.

For college students, this legal barrier can become particularly problematic. Living away from home, often in a different state, they may face situations where they need parental support but are unable to grant permission for their parents' involvement.

Without the proper documents in place, parents might find themselves unable to help their child navigate serious health issues or financial obligations during a crisis. In Sophia's situation, if her parents did not proactively obtain the necessary legal documents before a crisis, they would be forced to initiate a costly and time-consuming court proceeding to obtain guardianship over Sophia.

Essential Documents Every College Student Needs

Health Care Proxy: Allows your adult child to designate a health care agent – typically a parent – to make medical decisions on their behalf if they become unable to do so. This document becomes invaluable not just in emergencies, but in any situation where your child needs medical advocacy. The health care agent can: (1) access medical records; (2) consult with healthcare providers; (3) make treatment decisions; and (4) coordinate care between different medical providers.

Living Will: Details the wishes and preferences of the young adult so that the health care agent can properly act on their behalf. This document typically addresses preferences regarding life-sustaining treatment, artificial nutrition and hydration, pain management, organ donation, and religious or personal beliefs that should guide medical decisions.

Power of Attorney: Allows the young adult to name one or multiple agents to handle all financial matters. This may include: (1) managing bank accounts during emergencies; (2) handling insurance claims; (3) dealing with college administration, tuition, and financial aid; (4) paying bills and managing other financial obligations; (5) protecting assets during incapacity; and (6) hiring legal counsel and other professionals.

First Step

Consult an estate planning attorney to ensure your family's needs are properly addressed. These documents are important and must be prepared with specific powers and language to be effective. Meeting with an estate planning attorney ensures the documents comply with state law requirements, include necessary witness and notarization provisions, and contain language that will be recognized by medical facilities and financial institutions when you need them most.

Having the Conversation

When an attorney discusses these documents with your young adult child, they will focus on empowerment rather than control. These documents are about ensuring their wishes are followed and their interests are protected when they need help most. They will maintain control over their decisions and can revoke or modify these powers at any time.

Taking Action

These documents should be drafted and executed before your child leaves for college – not after an emergency. Consider Sophia's case: her parents' quick action in getting her proper medical care wasn't impeded by legal barriers because they had prepared these documents during the summer. Their foresight to meet with an estate planning attorney meant they could focus entirely on her recovery rather than fighting legal battles during a crisis.

For families who have a child who is 18 or older, and especially for those preparing to send their child to college, establishing a health care proxy, living will, and power of attorney should be as much a part of college preparation as buying dorm supplies or registering for classes. These documents provide peace of mind while respecting young adults' independence, ensuring that if the unexpected happens, families can focus on what matters most.

Jennifer S. Raguso, Esq. is an experienced attorney who focuses her practice on Estate Planning, Elder Law and Special Needs Law at Futterman Lanza, LLP. Jennifer Raguso combines her extensive knowledge and background in this area of law along with her deep understanding of the clients and their family dynamics. Jennifer Raguso assists families in preparing for any eventuality using asset protection, will preparation, revocable and irrevocable trusts, Powers of Attorney, Health Care Proxies and Living Wills.

Futterman Lanza, LLP is an elder law and estate planning law firm with staffed offices in Smithtown, Bay Shore, Melville and Garden City, New York. Jennifer Raguso primarily works in the Smithtown office, where we have celebrated our 21st anniversary serving the local community.

The firm's holistic approach anticipates and provides solutions in the ever-changing landscape. You can learn more about Jennifer Raguso and the firm by visiting www.trustedattorneys.com.