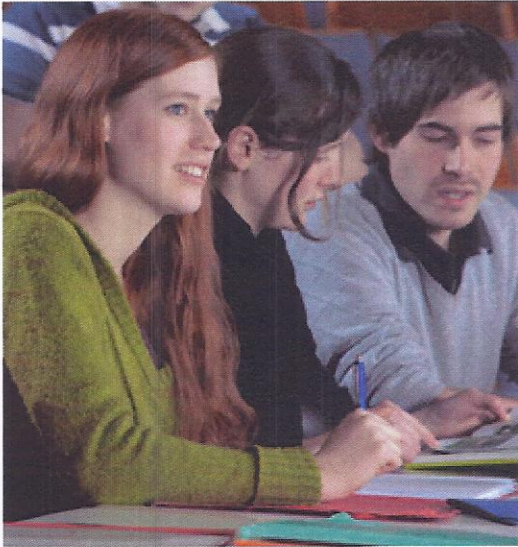


Estate Planning Bits

Everything you don't think you need to know about estate planning.

December 30, 2009

A health care proxy and durable power of attorney are critical when your child turns 18



So, your college-aged baby is now back from the fall semester in college, or perhaps just passing through home for the holidays before moving on to a semester abroad or a new job. You might be rushing around packing electronic adapters, passports and visas, and buying all those goodies that your child might need on his/her next adventure.

Stop for a minute. If your child has not yet executed a Durable Power of Attorney, and Health Care Proxy, it is wise to re-think priorities.

From now on, if your over-18-year-old meets with some money problems, or cannot access a bank account or resolve a credit card problem, unless there is a Durable Power of Attorney in place, the US financial institution cannot authorize you to access that bank or credit card account in hopes of managing or reconciling the problem. Sure, you might consider encouraging your child to change his bank account to a "joint account," but the implications from that type of ownership, whether on tax returns, financial aid applications, creditor problems, untimely death, or any number of situations, could have some serious adverse consequences.

I have written this before, and I'll repeat: It was just good timing when I insisted that my son execute a Durable Power of Attorney shortly after turning 18 and before a college trip with friends. Due to some fluke he couldn't access his bank account while out of the country. The authority provided in the Durable Power of Attorney allowed me to untangle the knot so that he could get on with his fun. Fast forward some years later to his extended trip alone to Thailand. Yet again, another bank issue came up. Again, we were thankful to have that simple document in place.

How about a Health Care Proxy? Not even debatable. Get it prepared and properly signed right after your child turns 18. Then, as your child enjoys his college fun, goes cavorting through forests, tastes new raw foods in foreign countries, or rides on the back of motorbikes with complete strangers, you will have the peace of mind of knowing that in the unlikely event that something does go wrong, and if your child cannot convey his/her thoughts, you will be authorized to speak for his medical care.

Encourage your child to speak with your estate planning attorney. Even if he is not sure about who he wants to appoint to serve as the Attorney in Fact or Health Care Agent, then at least begin the conversation. Inform the preparer if you have a time deadline; however, understand that you can't instruct your child about who he appoints to serve. You can only encourage smart choices.

More importantly, although this child is your baby, to the rest of the world he is an independent adult whose privacy needs to be respected. Therefore, when a problem arises, although you might run into the bank or medical facility wanting to "help" and make decisions, without certain documentation in place, your child's privacy must be

respected, and you will be on the outside. These documents can help all concerned when information must be accessed, decisions must be made, or actions must be taken in a timely manner.

If your son or daughter is not willing to listen to your thoughts on this topic, print out this blog post and put it on his bed. If he is strong enough to strike out on his own, then hopefully he foresees the potential benefits of signing these documents. Although most attorneys create documents that remain valid without an end date, if your child has concerns about the breadth and scope of either document, encourage him to discuss these concerns with an attorney.

Finally, through experience, I have learned that if your child is headed out of the country, remember to notify his bank and confirm that access to his account will be allowed in the country to be traveled. Certain banks do not acknowledge transactions initiated by certain countries, and if such a bank observes unusual financial activity from any foreign country without prior knowledge, it will likely refuse the transactions.

By: [Lisa L. Halbert, Esq.](#)

December 30, 2009 at 08:00 AM in [Durable Powers of Attorney](#), [General Estate Planning](#), [Health Care Proxies](#) | [Permalink](#)

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