As a parent, you might not fully appreciate that when your child turns 18 years of age, at least in the eyes of the law, you no longer have certain inherent rights related to medical and financial details about your adult child. For this reason, you’re strongly advised to get three simple legal documents in place to ensure you’re able to intervene on behalf of your adult child in the event your child is
injured, becomes ill or is otherwise incapacitated.

These situations aren’t easy to think about, but imagine the following scenarios:

- Your 19-year-old son, while away at college, is involved in a severe car accident and is rushed to the hospital unconscious.
- Your unmarried 25-year-old daughter, while vacationing with friends in Hawaii, is unconscious in the hospital following a jet-skiing accident.
- Your newly divorced 30-year-old son is hospitalized after suffering a brain hemorrhage and is put into a medically induced coma.

In each scenario, when you find out that your adult child is in the hospital, you immediately call for details about your child’s condition. You are horrified when the nurse says, “I’m sorry, but I am not authorized to provide you with any information or allow you to make any decisions.”

Here are insights about the three legal documents that would be prudent to have in place on behalf of your adult child before another day goes by.

1. **HIPAA Authorization Form (for Authority to Speak with Healthcare Providers)**

HIPAA, or the Health Insurance Portability and Accountability Act of 1996, exists for good reason; it is a federal law that safeguards who can access an adult’s private health data. If you call or visit the hospital to inquire about your adult child, as in the above scenarios, healthcare providers are prohibited by law from revealing health information to you – or anybody else – about your child; healthcare practitioners could face severe penalties if they violate HIPAA laws.

This illustrates why a HIPAA authorization, signed by your adult child and naming you as an authorized recipient, is so critical. It gives you the ability to ask for and receive information from healthcare providers about your child’s health status, progress, and treatment. This is particularly important in the event your adult child is unconscious or incapacitated for a period of time. Without a HIPAA authorization in place, the only other way to obtain information regarding your child’s health would be to go to court.

2. **Healthcare Power of Attorney (for Medical Decisions)**

If your adult child signs a Healthcare Power of Attorney naming you his/her “medical agent,” you will have the ability to view your child’s medical records and make informed medical decisions on his/her behalf. Without this document or a court-appointed guardianship, healthcare decisions concerning your child’s diagnosis and treatment will be solely in the hands of healthcare providers. While this is not always a bad thing, a physician’s primary duty is to keep the patient alive. So, a healthcare provider might not pursue a risky or experimental course of treatment at the risk of exposure to liability.
Keep in mind that doctors prefer to see one medical agent named rather than multiple medical agents. The concern is that multiple medical agents may not agree on the medical course of action to take on behalf of the incapacitated adult. As a best practice, it’s prudent to name multiple agents in priority order with single authority; for example, the adult child’s mother might be listed first as the medical agent; if the mother is unable or unwilling to serve in that capacity, the second person listed—say the child’s father—would be empowered to step in.


If your adult child were ever incapacitated, you would also benefit greatly from having a General Durable Power of Attorney in place, where you were named as the “agent” authorized to make financial decisions on his/her behalf. This would allow you as the named agent to manage bank accounts, pay bills, sign tax returns, apply for government benefits, break or apply for a lease, and conduct similar activities relating to your child’s financial and legal affairs. Otherwise, you will not be able to assist your child in managing his or her financial affairs without a court-appointed conservatorship.

Important Considerations

There are some important considerations to keep in mind regarding these documents:

- **Update these forms yearly.** Be prepared to have your adult child re-sign and re-execute these documents every couple of years. This is especially critical for Powers of Attorney. The institutions where you would be most likely to use these documents – such as hospitals and banks – might refuse to honor them if they perceive them to be outdated.

- **These documents are only as good as the institutions that will accept them.** Making sure these documents are properly executed is half the battle; whether they will be accepted by the involved institutions is the other half of the battle—one you don’t have complete control over.

- **These documents can be revoked at any time by your adult child either orally or in writing.** Your adult child retains control of the ongoing validity of these documents; therefore, your best bet is to maintain a trusting relationship with your child so he/she sees the benefit of giving you the access and control these documents afford.

- **For adult children attending college at an out-of-state university, parents will want to execute separate documents in both the student’s home state and college state.** If your daughter is from Denver but is attending college in Los Angeles, you’ll want one set of documents prepared under and governed by Colorado law and a second set of documents prepared under and governed by California law.

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