



# YOUR 18-YEAR OLD IS LEGALLY AN ADULT – ARE YOU READY?

Congratulations! As your son or daughter graduates from high school, you deserve to sit back and savor the moment. It's not only a big achievement for them and for you, it's a turning point in your lives.

## The Challenge

That turning point also raises a legal issue you'll need to address before your son or daughter heads off to college. No matter how responsible he or she is, you don't want them — or you — to be flying without a net in the event of an emergency. As a parent, you need an advance medical directive with an accompanying HIPAA release and a financial power of attorney for each of your kids after they hit 18.

Why? Because at the age of 18, the law considers your son or daughter a legal adult, even though you might still look at them and see a little toddler who somehow jumped from crayons to college overnight.

What the law says is, once someone turns 18, his

or her parents no longer have control over their financial or healthcare decisions. That's right: The youngster who keeps asking for 20 bucks for gas can sign their own contracts, borrow money—whatever. 18-year-olds also get to make their own healthcare decisions. If they don't want you involved, they can do their own thing.

But as scary as all that is, here's an even scarier scenario. Your kid is driving back to campus after a spring-break visit and gets into an accident. He's unconscious, in the hospital, with serious injuries. He can't sign anything or speak for himself. One of his friends calls you and says you better come quick.

What you'll discover when you get to that hospital, though, is that you don't even have the right to speak with your son's doctor. You have no right to get information about his condition. And you have no legal authority to make any healthcare decisions for him — unless you have the right documents with you.

## The Solution

That's why it's so important your son or daughter execute a general durable power of attorney, advance medical directive and a HIPAA release when they turn 18. Those documents empower you to act as a surrogate decision maker while they're away at college — or even living at home but suddenly lying in a hospital bed.

Those documents help you in three important ways.



- **Information Access:** Federal privacy laws and rules protect patients from the unauthorized release of information by healthcare providers. The Health Insurance Portability and Accountability Act of 1996 — better known as HIPAA — prevents that ER doctor from telling you anything about your unconscious son. However, a HIPAA release authorizes the doctor to communicate with you about your son's condition. So, whether or not you can physically get to that faraway hospital caring for your son, you can participate with the doctor in his medical decision making.



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- **Decision-Making Guidance:** An advance medical directive is not limited to end-of-life decisions, although it's obviously extremely helpful for such tragic scenarios. The advance directive appoints an agent — probably you, as your child's parent — to make healthcare decisions for your son or daughter if they can't do so themselves.
- **Authority:** The general durable power of attorney empowers you, acting as an agent, to assist your child — who the law considers as an adult — with financial matters. Whether it's making arrangements to get the bills paid for that hospital visit, or non-medical financial matters like handling tuition or getting scholarship forms filled out and submitted correctly, you, as agent, could access your son's or daughter's bank and credit card accounts to help them manage their affairs.

These documents are not only vital for you to have in an emergency, they also give you and your 18-year-olds a safety net. If they're pretty mature and responsible, they'll likely appreciate the security of knowing you have their back, so to speak. And if they have a history of poor decision making, the documents enable you to step in and save them from themselves — or collaborate with them in righting their wrongs.

At the very least, visiting an attorney and having these documents prepared provides you and your offspring an opportunity to talk about some important facts of life and the responsibilities that accompany the milestone of turning 18. An added bonus: This will open your kids' eyes to the conversation they'll someday need to have with you when it's time to think about serious estate planning and making arrangements for your own senior years.

Don't hesitate to call us here at Garson Law for support. It's often easier to talk about such matters in the company of a lawyer so you can get immediate answers to questions, rather than trying to hash things out around your kitchen table. We're here when you're ready to talk.

We make working on your estate planning as timely and painless as possible. Just contact Brian Hundertmark at Garson Law LLC for expert advice and a helping hand. (301) 280-2700 and [bhundertmark@garsonlaw.com](mailto:bhundertmark@garsonlaw.com).