

Taking a Step from Graduate to Grown-up: Estate Planning and Other Considerations for your Recent Graduate

By Brigitt Orfield and Christopher Burns

Congratulations, proud moms and dads of new grads! Amidst all the festive parties and frenzied packing, be sure to add these other important preparations to your to-do list:

Statutory Short Form Power of Attorney, Health Care Directive, and Digital Property Authorization

These legal documents are not just for “grown-ups” anymore. Having your adult children sign statutory short form powers of attorney, health care directives, and digital property authorizations can offer protections that benefit both you and your child.

Here’s why: Once your child reaches age 18, they are legally an adult and you no longer have statutory authority to make legal, financial, or health care decisions on their behalf or to access their online accounts. This is true even though you may be paying your child’s tuition and health care costs, as well as claiming them as a dependent on your income tax return. In turn, your child, while enjoying newfound freedoms, may be overwhelmed by handling first-time responsibilities on their own: such as renting a first apartment, buying a first car, or traveling abroad.

Important Legal Documents

Here are several types of documents to consider:

- *Statutory Short Form Power of Attorney:* This document enables parents to take care of business on their adult child’s behalf. It gives parents the ability to pay bills, access bank accounts, and sign forms. This provides peace of mind for parents, as well as a level of protection for young graduates who may be new to or ill-prepared for these financial responsibilities.
- *Health Care Directive:* This document authorizes a “health care agent” (the parent) to make health decisions on behalf of their young adult child in the event the latter were to become incapacitated. In this case, the child is able to outline their wishes with respect to health care in the document to provide guidance for their health care agent. This document also contains a *HIPAA Authorization*. This authorization permits health care providers to disclose the incapacitated child’s protected health information to the child’s parents to assist the parents in making health care decisions on the child’s behalf.
- *Digital Property Authorization:* This document allows your child to appoint you to gain access to and manage their digital property in the event of their incapacity (for more detailed information on estate planning for digital assets, please see prior article-LINK).

Insurance Considerations

As your child embarks on adulthood, insurance can protect them - and you - in many respects:

- *Renters Insurance.* If your child is living in on-campus housing, their personal belongings may be covered under your homeowner's policy. You should make sure by naming your child's student residence as an insured location on your homeowner's and umbrella policies. In addition, if they are renting an off-campus house or apartment, they should have their own renters insurance policy. In either event, it is a good idea to check with your insurance agent to verify that you have the necessary coverage.
- *Term Life Insurance.* The share of students borrowing large amounts to pay for college has increased dramatically over the past decade. While federal student loans in your child's name are discharged in the event of their death, this is not the case with private student loans. If you have co-signed student loans on behalf of your child, you could be held legally responsible for the debt in the event of your child's death. Term life insurance on the life of your child can be an inexpensive way to hedge against this risk.
- *General Liability Insurance.* As the owner, you can be held vicariously liable for the conduct of the driver of any vehicle registered to you. This means that you may be held liable for any injuries or damage caused by your child (or your child's friends) while driving your car. You will want to caution your child against loaning your car to friends and verify that you have sufficient liability limits on your insurance or get an umbrella policy (see below). If your child is an adult, you may also consider registering a car in his or her name. That way, liability for a child's accidents may not extend to you.

Caveats and Considerations

These strategies represent a win-win, providing protections for both parent and child that neither may recognize they need. Young people may feel invincible. Parents may assume that the law automatically recognizes them as their child's agent. Both may wrongly assume that parents intuitively will know and can adequately represent the young person's wishes in a health crisis.

At Henson & Efron, our attorneys are experienced in estate planning matters, including powers of attorney, health care directives, digital property authorizations, and insurance planning. If you'd like our assistance with implementing these strategies for your young graduates, please contact *Brigitt Orfield* at borfield@hensonefron.com or *Christopher Burns* at cburns@hensonefron.com

The purpose of this article is merely to provide general information and may not be construed as legal advice.