

**An Important Step to Take With Children Over 18  
And, let this be a reminder to you in the event you do not yet have your own health care proxy.**

Many parents are shocked and concerned when their 18-year-old child gets sent to the hospital while away at college. Suddenly, they discover the hospital refuses to speak to them about their child's medical condition, citing privacy laws. The hard fact is that once a child turns 18, parents no longer legally have any say over medical or financial decisions involving their newly adult child.

**Health Care Proxy:**

What happens if you receive a call from your son's roommate that he has been injured and is in the emergency room? You immediately call the hospital and are shocked to be told that because your son is 19, the hospital cannot legally speak to you about his medical condition unless you are his health care agent or proxy. This is due to the Health Insurance Portability Accountability Act (HIPAA), which provides safeguards to protect the privacy of personal health information. Physicians and nurses are hesitant to discuss the medical condition of an adult with anyone who has not been authorized, in writing, to receive this information.

**This is why it is important for every adult to execute a relatively simple legal document referred to as a Health Care Proxy or Declaration.** A Health Care Proxy/Declaration allows an individual your child appoints as his or her health care agent to be informed of their medical condition and make medical decisions on their behalf if they are unable to make them or communicate them for themselves. The document is crucial because it identifies the person whose direction is to be followed regarding his or her medical care. This is especially critical in the event that family members disagree about medical treatment. The individual designated as the health care agent should be someone your son or daughter knows well and trusts. It is important that the chosen proxy should be comfortable making medical decisions and interacting with physicians and nurses. Also as a general rule this document should be updated every three to five years if possible.

**Durable Power of Attorney:**

Another important document to encourage your adult child to execute is a financial Durable Power of Attorney. This document allows an individual your son or daughter appoints (referred to as their attorney-in-fact) to make financial decisions on their behalf in the event of their incapacity. The primary purpose of this document is to prevent the appointment of a conservator by the court to manage their finances should they become incapacitated.

There is a misconception that this document is not needed until the young adult begins working and begins to accumulate some assets. This is not necessarily accurate. Let's assume your daughter is enrolled in a semester abroad program at her university. What if one day you receive financial aid paperwork that requires her notarized signature? What if it is the spring semester and she has to file her federal and state income tax returns?

Having a Durable Power of Attorney for financial matters in place would enable your daughter's attorney-in-fact (perhaps you) to sign these documents on her behalf. Similar to a Health Care Declaration/Proxy, this document should also be updated every three to five years if possible.

A Health Care Proxy and Durable Power of Attorney are a Must for Every Child Over 18

**Summary:**

It is estimated that slightly over 4,000,000 children turn 18 each year in the United States.<sup>1</sup> So, after taking a picture on your smart phone of your "child" blowing out the 18 candles on his birthday cake, you should record a note on your phone to remind yourself to discuss the importance of executing a Health Care Declaration/Proxy and a Durable Financial Power of Attorney with your now adult child.

Of course consult with your own legal council as final say on these matters, but this gives you a good starting point for context. If you would like any recommendations of someone to speak to, I would be happy to provide some resources.

Please feel free to forward this along to anyone else you think would want to know about this.