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A Publication of Bowditch & Dewey's Estate, Financial & Tax Planning Group

Preparing for College: Why Your Student Needs a Health Care Proxy and Durable Power of Attorney

BY DARCY M. HAMILTON • JULY 8, 2025

Parents of college students or of any child who has turned 18 years old should encourage their adult child to execute a durable power of attorney, health care proxy and HIPAA Authorization.

The Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) provides that only the young adult and their authorized agent have the right to access the young adult’s medical records. As such, it is important that all adults execute a HIPAA Authorization, which allows the persons named in the adult’s Authorization to access their medical records. Having this authorization in place will allow a hospital or other medical provider to provide information on a young adult’s condition and care to the young adult’s parents or other named authorized persons.

In addition to the HIPAA Authorization, in the event a young adult is incapacitated and cannot communicate with their physicians, a health care proxy appoints someone to act as their health care agent. The young adult may also appoint successors to act if the first named health care agent is unavailable. Appointing a health care agent is crucial to avoiding delays in medical decisions as well as unnecessary expense and stress that could be caused by the necessity of filing a guardianship action in court.

A durable power of attorney appoints an attorney-in-fact to handle an adult’s financial affairs. The young adult may appoint more than one person to act as their attorney-in-fact and may appoint successors as well. Such power can be immediate or “springing,” meaning that an event of incapacity is required for the durable power of attorney to be effective. Having an immediate durable power of attorney in place can be useful for simple matters such as assisting a young adult with banking and filing taxes or otherwise helping them in managing their financial affairs. It will also allow an authorized agent to access the young adult’s billing records, such as tuition payments and grades. If a young adult were to become incapacitated, the durable power of attorney would allow for someone to handle their financial affairs without the need for a court appointed conservator.

Students and parents of students heading to college this fall should consult with their [Bowditch Trust and Estates](#)

[attorney](#) to create these incapacity documents.