Do You Have a College Student? Important Health Care, Financial, and Educational Documents That They (and You) Need

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August is upon us and you may soon be sending children off to college. If your child is age 18 or older, you and your child will need to take some simple steps so that, in the event of an emergency, you will be able to make health care and financial decisions for your child and have access to your child's medical information and financial accounts. The same is true if you are to have access to your child's educational records.

Medical Information. Once your child reaches age 18, your child is deemed to be an adult by law and you no longer have a legal right to make health care decisions on behalf of your child or to access your child's health care information. As a result, if you have an adult child, your child must execute certain legal documents naming you as his or her health care agent and permitting you to access his or her medical information:

1. Your child must execute a "Health Care Proxy" naming you as his or her agent for health care decisions. In this document, your child authorizes you to make health care decisions on your child's behalf if he or she becomes unable to make or communicate such decisions him or herself. The child may also share his or her own wishes regarding medical treatment.

2. Your child must also sign a "HIPAA Authorization Form." The Health Insurance Portability & Accountability Act of 1996 (generally known as "HIPAA") protects the privacy of an individual's medical information, and health care providers may require written consent from a patient to share information with family members, including parents of an adult child. Your child's college or university may also have policies in place preventing it from sharing medical information without the student's consent. This form will serve as written permission authorizing those providing health care services to your child to share medical information with you as your child's health care agent.

3. In addition, you should be in contact with the health services department of your child's college or university. The institution may provide its own form for authorizing the release of medical information that can be kept on record with the institution's health services department.

Financial Accounts. If you are to have the ability to act on behalf of your adult child with respect to financial matters, your child also needs to execute a "Durable Power of Attorney" naming you as your child's agent with respect to the child's assets and finances. If your child is attending college away from home, is studying abroad, or undergoes a medical emergency, it may be useful for you

to access your child's accounts on his or her behalf. This allows you to pay bills for a child out of their accounts, make deposits and open or close accounts. In addition, a durable power of attorney allows you to handle other financial tasks for the child, like filing tax returns or renewing a lease.

Educational Records. Finally, the Family Educational Rights and Privacy Act (FERPA) protects the educational records of a child who has turned 18 or is enrolled at a postsecondary institution from access by his or her parents. If the child's parents claim the child as a dependent on their tax returns, the parents may still access the child's education records without the child's consent. However, institutions may be reluctant to allow access to education records for any child over the age of 18 without a "FERPA Waiver" signed by the child, regardless of their status as a dependent. If you would like to have access to your child's educational records, you should contact the institution to request a FERPA Waiver form.

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These documents are not difficult to put in place and should help to provide some peace of mind for you and your college student. If you would like to discuss any of the documents mentioned in this advisory, please contact your Goulston & Storrs attorney or any member of the Private Client & Trust Group.