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Two Documents Every 18-Year-Old Should Sign



[Deborah L. Jacobs](#), FORBES STAFF

I cover personal finance for baby boomers.

If you are about to send a child off to college or to a gap-year program, you're probably busy with last-minute shopping, packing and worrying about roommates. Here's one more thing you should do as you prepare for the big separation: Ask this young adult to sign a durable power of attorney and a health care proxy.

These two estate planning documents, [more commonly associated with older folks](#), are essential for younger people too. Without them, in most states parents don't have the authority to make health care decisions or manage money for their kids once they turn 18—even if they are paying the tuition, still have those kids on their health insurance plans and claim them as dependents on their tax returns. That means if a young adult is in an accident and becomes disabled, even temporarily, a parent might need court approval to act on his or her behalf.

The risk is real. Accidents are the leading cause of death for young adults, and a quarter-million Americans between 18 and 25 are hospitalized with nonlethal injuries each year.

But it doesn't take something nearly that drastic for parents to need to act on a child's behalf. Bradley J. Franc, a lawyer with Houston Harbaugh in Pittsburgh, realized that two years ago, when his son Alex, then 19, was a sophomore at Penn State. After traveling to Mexico for spring break, Alex developed a severe intestinal bug that landed him in the college infirmary. Franc rushed to visit him there, only to find that doctors refused to discuss his son's condition, citing privacy concerns.

After what sometimes seems like endless years spent raising a child, their adulthood—and all the rights that go with it—may creep up suddenly. And much as you hope you've prepared them to take care of themselves, you may still be their fallback for emergencies. Getting the necessary authority to play that role can be a rite of passage and a learning experience for both parent and child.

Fortunately, Alex Franc promptly recovered. But the temporary scare to his concerned parents could have been avoided if he had signed a health care proxy before he went off to college. This document, also called a health care agent or health care power of attorney, authorizes someone to make medical decisions on your behalf. And legally, it also automatically gives that agent access to your medical records. (Some states have surrogate decision-making laws that give specific family members the right to make certain medical decisions for others.) In the same document, or a separate one called the living will, you can express your preferences about end-of-life care. Up-to-date versions of these forms for each state can be downloaded for free from caringinfo.org.

Not thinking about this before his son went away to school, Franc says, was a case of the cobbler's children going barefoot, since he is a trusts and estates lawyer and routinely handles these matters for clients. The next time his son came home for vacation, he had not just a health care proxy, but also a durable power of attorney, ready for him to sign. While the former deals with medical decisions, the latter appoints a trusted family member, friend or adviser as an agent to act on your behalf, if need be, in a variety of financial and legal matters. These, too, vary by state and can be found online by searching “free [your state name] power of attorney form.”

The power of attorney may be effective from the moment your child signs it or you can specify that it be activated by a specific event—for instance, if he or she becomes incompetent. The problem with this approach, known as a springing power, is that someone must decide when an individual has reached that state. Traditionally, this has required a medical opinion.

Though the parent is usually the best person to put in charge of both medical and legal matters, when relationships are strained, you child might appoint another trusted adult, such as an aunt, uncle or older sibling, rather than the parent, as the agent. It's also important to name an alternate in case, if and when the time comes, your child's first choice is unable or unwilling to serve.

Many people are wary of signing a power of attorney, since it gives unbridled authority to an agent. While the elderly tend to be concerned (sometimes with good reason), about [people stealing their money](#), for college students there is another risk: that their parents will be able to find out their grades. Though parents often pay for tuition, they are not parties to the agreement between student and school, Franc explains. Rules vary from one institution to the next, but many schools will not disclose grades without a student's permission. A power of attorney, which gives an agent the right to enter into, renegotiate or amend contracts, can also be used to get access to the transcript, Franc says.

But you don't have to be a helicopter parent to need a power of attorney. It can be useful in a variety of situations that can arise when children go overseas, either for a gap year or to study. In case of an emergency, having a power of attorney makes it easier to contact the local embassy or wire money from a child's bank account, for example. It could also come in handy if a parent needs to sign a legal document, such as a lease, in the child's absence.

How can you get children to sign these documents, especially if they are still at the stage of thinking Mom and Dad are clueless about practically everything? Gentle persuasion works best, Franc says. Another possibility is to make it a condition of your paying the tuition or buying your child a car—if that's in the offing.

Another tack is to ask a lawyer to prepare this back-to-school package, meet briefly with you and your child and explain the significance of the documents. Compared with other back-to-school expenditures, the roughly \$350 you will pay for this service could turn out to be a very good investment.

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Deborah L. Jacobs, a lawyer and journalist, is the author of [Estate Planning Smarts: A Practical, User-Friendly, Action-Oriented Guide](#), now available in the third edition.



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