

School Is Back In Session

High School Seniors Can Use a Starter Estate Plan (Advisor Letter #1)

As summer fades into fall and school resumes, millions of seniors are entering the home stretch of their high school careers and marking their official entry into legal adulthood at age 18.

According to cognitive scientists, some individuals' brains do not finish developing until they are in their late 20s or early 30s, and many parents would be quick to agree. But in the eyes of the law, when a child reaches 18, they can vote, get married, sign a mortgage, join the military, move out of their parents' home, and do many other things that only adults are allowed to do. This also includes creating an estate plan.

While an 18-year-old may not need as many tools in their estate plan as adults further down the path of life require, they should at least have the foundational documents that address the new reality of their legal independence and the fact that their parents can no longer manage their affairs for them without their written consent.

Turning 18 and the End of Parental Authority

Parents never stop being parents. No matter how old our kids are, we feel the need to nurture and protect them.

Once a child reaches age 18, however, the law limits how involved parents can legally be in their child's life. Parents no longer have the right to access their child's financial and medical records or make decisions for them in an emergency—regardless of whether the child is still in high school, covered by their parents' health insurance, or receiving monetary assistance from their parents.

Parents who are unaware that their parental authority is severely limited after their child's 18th birthday could find themselves helpless to intervene if their child suffers an accident and certain legal documents are not in place. Or maybe a child plans to enter the military or travel abroad when they graduate. Whatever their plans are, they should have a few basic estate plan documents when they turn 18.

Estate Plan Documents Every 18-Year-Old Should Have

The point of discussing accidents, disability, and incapacity (a person's inability to manage their affairs while they are alive) is not to scare parents and young adults unnecessarily but rather to stress the importance of estate planning for a young adult who will soon be graduating high school, starting the next chapter of their life, and entering the real world.

Being an adult involves taking on greater responsibility, self-advocating, and addressing uncomfortable possibilities head-on. One of these possibilities is that something could happen that requires a parent—or somebody else—to step in and make decisions for them.

Powers of Attorney

A power of attorney (POA) allows an adult child to appoint someone else to act on their behalf concerning the circumstances laid out in the document. Depending on state law, POAs can take effect immediately, at a future date, or upon a certain condition being met (e.g., incapacity due to injury or illness). They can be broad in scope or limited only to those actions and types of

decisions specified in the document. Also, states have different rules governing POAs, and more than one form may be needed if a child is changing their residence to a different state than their parents.

- *A medical power of attorney* allows an adult child to designate another person to make medical decisions for them when they cannot communicate their own wishes. For example, it could allow a parent to direct treatments and consult with the physician regarding their child's care in a medical emergency.
- *A financial power of attorney* grants a designated person the authority to conduct financial and legal matters, such as paying bills, filing taxes, and managing banking and investment accounts, on another's behalf.

Advance Directive/Living Will

Young people can sometimes feel invincible. Contemplating mortality, and planning for it, comes with age.

One way to plan for a health crisis is with an advance directive or living will, which is a set of instructions that a person uses to outline their healthcare wishes if they suffer a debilitating medical condition and are unable to communicate. It will specify life-extending medical treatment preferences, such as whether they want a feeding tube, artificial hydration, or a breathing machine to keep them alive.

These tools are commonly confused with a DNR (do not resuscitate) order. DNR orders are not typically included within an estate plan but are instead executed within specific medical facilities like hospitals or assisted living facilities.

Advance directives are not legally recognized in all states, but where they are, they can provide helpful guidance to the person acting under a medical power of attorney.

Health Insurance Portability and Accountability Act Waiver

As either a separate document or included in a medical power of attorney, a Health Insurance Portability and Accountability Act (HIPAA) waiver grants named individuals access to the adult child's protected health information. Parents will likely need to be named in a HIPAA waiver even if their child is still covered under their health insurance.

What Can Happen If an Adult Child Does Not Plan for the Unexpected?

Without these documents, state law will choose an adult child's decision-maker—most likely a parent. Although this could be whom the young adult would also choose, it takes time for a court to put decision-makers into effect. In an emergency, where every second counts, the family might not have any time to spare.

It could also be the case that the child is estranged from their parents and does not want them to be authorized decision-makers. The parents may find this hurtful, but the choice belongs to the young adult.

The months ahead present a huge opportunity for advisors to work on an estate plan starter pack that includes POAs and related documents with any clients who have children approaching

adulthood. If you or your clients would like to discuss this starter estate plan for new adults, give us a call.