

08.05.2021

Gresham's Legal Document Checklist for Children Heading to College This Fall

Generally, you lose access to your child's health and financial information once they become legal adults at the age of 18 years old unless they take certain steps to give you access. To this end, below is the list of essential legal documents to complete when a child turns 18 and before they go to college or leave home for other pursuits.

1. **FERPA Release.** The Family Educational Rights and Privacy Act protects college students' privacy, but it can also leave parents locked out in an emergency. A properly worded release signed by your child allows school officials to talk and release records to you.
2. **Durable Financial Power of Attorney.** This document gives you authority to assist in your child's financial affairs (e.g., access accounts, pay bills) if the child is unable to do so, whether due to incapacity (e.g., illness) or impracticality (e.g., the child's college is across the country). Setting up joint accounts and sharing credit cards is another way to remain in the loop on a child's spending
3. **Durable Healthcare Power of Attorney.** Once a child turns 18, parents no longer can make medical decisions on that child's behalf. This document should appoint you as agent to communicate with your child's medical providers, advocate for their wishes if that child is temporarily unable to communicate for themselves and handle medical decisions on their behalf if they become incapacitated.
4. **HIPAA Authorization and Medical Record Release.** The Health Insurance Portability and Accountability Act was designed to protect a patient's privacy. However, the transition from having full access to a minor child's medical records to having no access to an adult child's medical records can be abrupt. If your newly adult child signs HIPAA authorization and medical release forms, you can continue to access their medical records and participate in conversations with doctors about your child's condition, care, and treatment. Some states integrate HIPAA waivers into the Durable Healthcare Power of Attorney form, but in other states it must be in a separate instrument.
5. **Will.** It may be strange (or even upsetting) to think of your child executing a will, but it's important for every adult to plan for the unexpected and the attendant complexities in the event of a tragedy. Having your child execute a will also instills responsibility and encourages them to think about long term planning early in life. Additionally, estates over a state-specific threshold amount typically need to go through a court-run probate process. If a child dies without a will, the probate process becomes much more burdensome for the family, and any of the child's assets would pass according to the state's default rules (typically 50% to parents and 50% to siblings).
6. **Revocable Living Trust.** At some point between age 18 and within 30 days of turning 21, children should execute a revocable living trust to hold their assets that may have been in an UTMA account, 2503(c) Minor's Trust, or any other individual assets they may be accumulating in their individual names. Children can name a parent as trustee or co-trustee of this trust and it can provide that no amendments

to the trust are permitted without the trustee or co-trustee's consent.

7. **Digital Assets Inventory and Instructions.** Young adults should maintain a list of all their online accounts with instructions for how to access them. They should share this list with parents or trusted advisors or tell them how to access the list in an emergency. As an alternative, they can store all passwords using an online password management tool such as LastPass. The single password to that tool can then be stored in a safe place where it can be accessed in an emergency. Importantly, powers of attorney, wills and revocable living trusts must contain special language to give fiduciaries access to digital assets, and in many cases online accounts will have their own rules and forms to give an agent or fiduciary access to the account.

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August 5, 2021

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