

Why even young adults need powers of attorney documents

By Sandy Cairns

Estate planning includes planning for the disposition your assets after your passing as well as providing for incapacity during your life. Is it ever too early to begin estate planning? I think not. All too often we read in the headlines about the disappearance of a college-age student. While parents desperately search for their missing child, they are blocked from access to bank records, phone logs, and social media accounts. The reason is simple. At the age of 18, children become adults in the view of the law, responsible for themselves.

As the parent of a missing young adult, you would not have access into his or her personal life without your son or daughter's written consent. Critical time could be lost - time that could mean the difference between finding your missing child or not. How can you improve the outcome of such a dire situation? The law has a remedy: the Power of Attorney (POA). Does your college-age child have one? Do you?

A POA is a legal document that gives someone else (your agent) the authority to make decisions for you. There are several kinds. The Durable POA grants your agent the authority to handle your financial affairs. The Health Care POA grants your agent the authority to make personal care and healthcare decisions. The Health Care Directive (also known as a Living Will) tells your health care provider what treatment you would want in the event that you were in a terminal or permanently unconscious condition. While the Durable POA can be designed to cover both financial and health care decisions – an all-in-one - this only works if you want the same people to pay your bills and make medical decisions. Often people want someone different in these roles.

Getting back to the heart-wrenching scenario where your college-age child is not responding to your texts, calls or e-mails, if the child has no POA, you as a parent are unable to access critical information that could be instrumental in finding your child. To obtain access to this information, you would have to petition the court. Such guardianship proceedings are expensive and take time, time you may not have. Be prepared; have a POA in place.

Prepare for the Worst - Hope for the Best

Add POAs to the list of critical subjects to discuss with your children as they enter adulthood. The ultimate decision of whether to create a POA is up to the young adult. But as a parent, you can guide your children and teach them the responsibilities of being an adult. One of those responsibilities is to plan ahead. Ask your child: Who would you want to make decisions for you if you couldn't make them for yourself? What would those decisions be?

For most young adults, a "springing" POA that is effective only upon disability would be suitable. However, as with many things in life, there are two trains of thought on whether to make your POA effective upon disability or to make it effective immediately. Those who support making your POA effective immediately point out that if you don't trust your agent while you are competent and can supervise them, why would you trust them when you are incapacitated? Whether the POA is effective immediately or upon disability, appoint someone you trust implicitly.

Children may not want to grant broad powers to their parents. After all, during the tender years when the child has become an adult, perhaps living away from home for the first time, young adults may not

want or need their parents monitoring their every move. “Junior – look how much you spent on takeout food last week!” Luckily the POA can be customized to be as broad or narrow as needed.

For our needs here, the POA could be tailored to give the parents access to personal information only in the event that the child did not respond to, say, text messages from the parents for a defined period of time. The child could authorize the parent in this limited context to access his or her records so the parents could track down the child to help provide a positive outcome to the missing child story. Getting speedy access to text messages, bank records, or social media would mean a head start when a young adult may have been abducted or is lying unconscious somewhere. Be proactive and create a POA.

Proactive Action List

- Talk** to your college-age student about the importance of having a POA
- Ask** the child how he or she would like matters handled
- Consult** an attorney

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