3 Essential Legal Docs Your Child Needs When They Turn 18

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Kids sure do grow up fast these days, don't they? Before you can say "quit texting," they're ready to move on, whether it's into the working world, enrolling in college or enlisting in the military. It's a lot to take in for both you and them. After all, in your eyes, they're still the babies you've looked after and the children you've raised for so long – not the fledging adults they've become.

But keep in mind that once they turn 18, they've reached the "age of majority" in most states and are considered an adult – who are legally held responsible for their own actions. Plus, you no longer have the legal right to inquire about their medical, educational or financial status. As frustrating as that may seem, there is still one thing you can do before they leave the nest: have them complete crucial documents that help protect them from life's legal blind spots.

The importance of executing legal documents

Molly Anderson, an ARAG network attorney with the law firm of Howes & Anderson, P.C. based in West Des Moines, Iowa has encountered this scenario countless times with clients and offers this perspective on estate planning for your children.

"It's understandable that estate planning usually feels like a foreign and unnecessary concept for young adults,"

Anderson says. "That's because they are generally healthy and see no reason to believe they will become sick, injured or die anytime in the near future."

"However, no one can predict the future! If something happens and a child has neglected to put in place certain documents, then the court system gets involved and the decisions about the child's life and property are taken out of their hands."

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> ARAG Network Attorney

The "power trio" of estate planning documents

To protect against these situations – and to give parents more peace of mind – Anderson suggests they have their children complete the following trio of estate planning documents – and stress the importance of each, especially if the child will be living on their own.

1. Health Care Power of Attorney

As previously alluded to, once a child is 18, parents cannot make health care decisions for their children, which makes this perhaps the most important document for any young adult to execute once they turn 18. It allows the child to designate an agent who can make healthcare decisions on their behalf if they are incapacitated and cannot make decisions themselves. If the child is ill or injured and has no health care power of attorney, state laws will decide who will make medical decisions for the person who is incapacitated. Typically, the state hierarchy is the person's spouse, then an adult child, a parent, an adult sibling or an older relative. If the person doesn't have any family or close friends, the court will appoint a guardian.

If you live in a state that does not have a “default surrogate law,” medical providers will normally rely on the person’s close family members to make health care decisions.

2. Financial Power of Attorney

Similar to the health care power of attorney, this document allows the child to designate an agent who can make financial decisions on their behalf if they become incapacitated and cannot make decisions themselves. If the child is incapacitated and has no financial power of attorney, their parents will be required to go to court and ask to be appointed as their child’s conservator in order to make financial decisions.

3. HIPAA Authorization

A HIPAA Authorization allows your child to identify who can have access to their health records and for what purposes. It also allows health care providers to share information with those individuals designated on the authorization form. The HIPAA can contain an expiration date or no expiration date.

Start the discussion

Admittedly, estate planning is not exactly an easy subject to broach when your child is looking forward to the excitement and independence of striking out on their own. But framed in a positive and proactive way, explaining the importance of these documents could alleviate a lot of future issues that may become even more difficult for you to address from afar.

Regarding this impending yet crucial discussion, Anderson offers this perspective. “I consider estate planning to be similar to insurance in that usually it sits in the background and makes no impact on your day-to-day life. But when something significant happens, such as an accident, illness or death, both you and your child will be very glad to have this protection to make a difficult situation – and potentially tough decisions – easier.”

Anderson adds, “Finally, the child should know that any estate planning documents they execute as young adults are something of a placeholder. As their life changes by moving out of state, getting married, having children, etc., the child can and should update all their estate planning documents to reflect relevant changes in their life.”

Regarding the work she conducts with members of the ARAG legal plan, Anderson notes, “I find that many members do not even realize their coverage also applies to their young adult children, or they assume that they will be able to make decisions on their children’s behalf even though the children are legal adults. That’s why I always recommend getting those basic estate planning documents done proactively, and ideally, along with a living will and will, to round out their legal protection. Believe me, it’s something that parents can do to make the transition from childhood to adulthood a little easier to accept.”