

The Dreaded 3am Call

By Eric G. Matlin, Attorney at Law

Some estate-plan documents have nothing to do with money or what happens to assets after we die. If you are outraged (or at least mildly irritated) that you pay your child's college tuition but don't have the right to see their grades, imagine a true world of hurt concerning their medical privacy rights. You get a call in the middle of the night from the college town hospital, a thousand miles away. The nurse's voice on the other end of the phone says, "your child is here, unconscious, but in stable condition."

Naturally, you want to know what happened, along with their condition and prognosis. The problem is that your adult child's rights to privacy extend well beyond grades, and include their medical care. Without their consent or a HIPAA (Health Information Portability and Accountability Act) authorization naming close family members as HIPAA-authorized, the medical staff at the other end of the phone is legally restricted in what information they can relay without violating federal HIPAA privacy regulations, so you get no clear response or even basic information. If you press for more, the "take-it-up-with-our-legal-department" response leaves your stomach churning, your mind exploding.

In addition to privacy rights, adults make their own decisions regarding health care. Health Care Powers of Attorney appoint an agent (a/k/a "proxy") to make medical and other personal decisions on your behalf if you become incapacitated. A Health Care

Power of Attorney is an "advance directive" that helps prevent a guardianship over a disabled adult, keeping your family out of court. The Health Care Power of Attorney provides a means to select agents and articulate treatment and residential options, along with end-of-life philosophies, such as metaphorical pull-the-plug and other personal decisions when your adult child (or you, a parent, sibling or friend) no longer have a voice.

As your children attain the age of majority (18 in Illinois), you may not realize some of the ramifications of their imperceptible change in status. For millions of young adults with limited assets, dipping their toes into the water of estate planning, like registering to vote, is an adult thing to do. The HIPAA authorization and a Health Care Power of Attorney are gateway estate-plan documents, more essential than a Will for people with few assets.

HIPAA authorizations and Health Care Power of Attorney (whether combined into a single document or not) are estate-planning tools that are essential for people of all ages and means. Before heading off to college or work, your 18 year old, now an adult, must act like a grown-up and sign a HIPAA authorization and Health Care Power of Attorney. Otherwise, while daydreaming about next-day or next-year's plans, an unanticipated event may occur, derailing the expected and adding unnecessary stress to an unforeseen medical emergency.



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Call (847) 770-6600 or visit www.MatlinLawGroup.Com to schedule an estate administration consultation, a free initial estate planning consultation).

Eric is also the author of two books. Not Dead Yet so plan your estate (Ozanam Publishing, Inc. 2019-available at Amazon.com or directly from Eric, in person), is a serious estate planning handbook with a book-within-a-book full story arc graphic novel that visually demonstrates the kind of nightmares that occur when people do not plan for life's uncertainties and death's finality. Eric's previous book is The Procrastinator's Guide to Wills and Estate Planning (New American Library division of Penguin Group, USA, 2004, with a new Ozanam Publishing, Inc. edition on track to be available in 2020).



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