

Don't Let Your Kid Go Off To College Without These Important Documents

July 26, 2017 | by Gary Botwinick

So the last 18 years have been building to this. Your baby is going off to college. For your child's entire life, you've been there for him. Now, he has to fend for himself, make his own decisions and live independently. You will undoubtedly get a huge packet of forms to complete regarding housing, food, etc. But what if your child suffers from a medical issue while he is away at school? Do you have the correct tools to deal with this issue?

Once your child attains the age of eighteen, she is an adult. And even if you are paying your child's entire tuition, your access to information regarding the life of this young adult is restricted. An adult child is not only entitled to make her own medical decisions, but she is also entitled to keep those decisions and any other medical matters private. The Health Insurance Portability and Accountability Act (HIPAA) is a set of Federal laws that establish national standards to protect individuals' health information, and the provisions of these laws apply to your adult child once she reaches the age of majority. While your child's doctor has always provided you with relevant medical information about your child, and relied upon you to make decisions on her behalf, once that 18th birthday is reached, everything changes.

You might wonder what type of health information is considered private under HIPAA? Basically, protected health information includes any information placed in a patient's medical record by a doctor, nurse, or other health care provider. This means that a parent, without the adult child's consent, is prohibited from viewing that adult child's medical records. Additionally, it means that the treating physician is not permitted to discuss the child's medical issues with the parent, without the adult child's consent. The summer before every college freshman's first semester of school is typically filled with stress. They often have to find a roommate with whom they will be totally compatible (*spoiler alert – this person doesn't exist*), they have to select the right classes, and they must seek out and buy all of the things that any properly decorated dorm room requires. But every year we hear about situations

where a parent finds out the hard way that they are no longer able to speak with their child's doctor, or receive important medical information regarding an ill or injured child's medical condition.

Let's say, for example, your child is away at school and suffers an allergic reaction, landing her in the hospital and rendering her unable to communicate with you directly. You receive a call from the treating physician letting you know your child is in the hospital, but when you ask what happened, they say they can't tell you. You ask if your child is ok, they say they can't tell you. What can they tell you? Unfortunately, very little, thanks to HIPAA.

That's why we counsel all parents who are sending a child away to school to take the time to have the child complete a Health Care Proxy, which is also known as a Medical Power of Attorney. The Health Care Proxy should be drafted by an attorney familiar with these issues and, at a minimum, must include a valid HIPAA authorization in order to be effective.