

## legally speaking

By Patricia C. Marcin, Esq. ©2018, Resident Writer

WILLS, TRUSTS & ESTATES: PLAIN AND SIMPLE

# Your "Baby" is Heading to College

...any estate planning documents needed?

While we may know better, an 18-year-old college student is generally considered an adult under New York law. Your rights as a parent to make decisions for your child change suddenly when he/she turns age 18. You no longer have complete access to your child's financial, education and health records, even if you're still paying the bills. Since it may be important for you to be able to make important financial and/or health decisions for your child, it's important to establish your legal ability to do so ahead of time. Therefore, your child should have a health care proxy and a power of attorney in place once he/she turns age 18. In certain circumstances, you should also consider having your child prepare a Will.

Your child should sign a health care proxy appointing you or another trusted adult to make medical decisions for them, if necessary. A health care proxy should include HIPPA language, enabling the doctor to disclose medical information to you.

Your child should also sign a durable power of attorney, appointing you or another trusted adult to act as agent for him or her in a variety of legal and financial matters. For example, if your child is spending a semester abroad, you would be able to wire money from your child's account, or sign important legal documents (such as a lease) in his or her absence.

If your child is lucky enough to have substantial assets at age 18, he or she should have a Will to direct where those assets should go in the event the child should die. Under New York law, if someone dies leaving only parents (no spouse or children), the parents get the child's assets. This could destroy a parent's well thought out estate plan.

If there is a trusts and estates topic that you would like to know more about, please feel free to email me at [pmarcin@farrellfritz.com](mailto:pmarcin@farrellfritz.com) and I will do my best to cover it in a future column.



**Patricia C. Marcin is a partner at the law firm of Farrell Fritz, P.C. concentrating in trusts, estates and tax law. Patricia has lived in Lloyd Harbor for 14 years with her husband, John Pastula, and their two teenage sons, Sam and Matt, and their dog Blizzard.**



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