



WILLS, TRUSTS & ESTATES: PLAIN AND SIMPLE

Estate Planning Documents for Your "Adult" Child – Whether at Home or In College

legally speaking

By Patricia C. Marcin, Esq. ©2020

While we may know better, an 18-year-old is generally considered an adult under New York law. Parents' rights to make decisions for their child change suddenly when he/she turns age 18. Parents no longer have complete access to their child's financial, education and health records, even if they're still paying the bills. Since it may be important for parents to be able to make important financial and/or health decisions for their child, it's important to establish the parents' 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, the preparation of a Will should also be considered.

Young adults should sign a health care proxy appointing a parent or another trusted adult to make medical decisions for them, if necessary. A health care proxy should include HIPAA language, enabling the doctor to disclose medical information to the parent.

Young adults should also sign a durable power of attorney, appointing a parent or another trusted adult to act as an agent for him or her in a variety of legal and financial matters. For example, if the adult child is unable to sign certain legal documents, or is unable to personally handle finances, due to physical or mental unavailability, the parent would be able to sign these documents and handle financial matters for their adult child in the child's absence.

If the adult 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 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 since 2005 with her husband John. They have two sons, Sam and Matt. Their faithful dog, Blizzard, still lives at home.

"I'm so glad we updated our wills. Farrell Fritz helped us understand all the recent changes and the best part is, we minimized our estate taxes. I feel so much more secure about our family's future."



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