

# Are Your Kids Heading off to College? Consider Setting Up A Power of Attorney

*SmithAmundsen Estate & Business Planning Alert*  
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The summer before I went off to college, my dad made me sign a Durable Power of Attorney for Finances. My dad was a lawyer and I was his third child, so he knew that in order to talk to the university and find out my grades, he needed a Durable Power of Attorney for Finances. My mom also insisted upon me signing a Durable Power of Attorney for Health Care, so that in the event of a medical emergency she and my dad would be able to talk to the doctor and hospitals and make medical decisions for me.

I did not realize then that when an individual turns 18, they are an adult and presumed to be capable of making their own financial and health care decisions. Although I was a responsible 18 year old, as a college Freshman I was not prepared to make many financial decisions or even understand what doctors were telling me, so I really appreciated my parent's help. The powers of attorney came in handy when I spent my junior year abroad. My parents were able to help me when I had some issues with my scholarship in the United States, and were able to talk to airlines about my flights and to the credit card company about suspicious charges.

If you have a college student heading back to school in the fall, it is worth considering putting Durable Powers of Attorney in place for your child. Without a financial and health care power of attorney, a parent will not have the authority to make health care decisions or manage money for their child over 18 years old, even if parents are paying tuition and the child is still on their parents' health insurance and considered a dependent for tax purposes. If a college student is in an accident and becomes disabled without a power of attorney, their parents would have to petition the probate court to be given the authority to act on their child's behalf.

A *power of attorney* is a legal document that allows one person (called the principal) to appoint someone else - called the agent or *attorney-in-fact* - to act on his or her behalf. The powers that can be exercised by the agent can be broad or narrow; the principal stipulates them in advance. There are three different types of powers of attorney:

- A *conventional* power of attorney gives the agent whatever powers the principal chooses for a specific period of time (e.g., 30 days) beginning when it

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is signed.

- A *durable* power of attorney stays in effect for the principal's lifetime - beginning when it is signed.
- A *springing* power of attorney is triggered by a specific event, such as when the principal becomes incapacitated.

With college students, the parents and the child need to decide together what is the best type of power of attorney to sign.

A durable power of attorney for finances specifies whom you've chosen to make financial decisions for you, and a durable power of attorney for health care (sometimes called a durable medical power of attorney or health care directive) specifies whom you've chosen to make medical decisions for you.

To set up a power of attorney, the child just needs to decide who they want to make financial and health care decisions for them, and documents can be prepared.

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