

# *Back to College: Did Your College Student Sign a Health Care Power of Attorney?*

*By Bruce Talen*



*Your 18-year-old daughter was knocked unconscious at an intramural soccer game at State U. The ambulance takes her to the local campus Emergency Room where she cannot answer any questions at this point. You get a text from her friends that your daughter is “hurt,” so you call the hospital to see what’s going on. The switchboard operator gets you to the ER attendant, who promptly tells you they can’t acknowledge*



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*anyone's admittance much less disclose anyone's condition due to privacy laws. Decisions about your daughter's immediate care are now going to be made without you in a city hundreds of miles away.*

*What could you have done better before this event occurred? Bruce Talen, general counsel at Commerce Trust Company, gives you some practical steps in avoiding the scenario above.*

## **Q. WHAT STEPS COULD PARENTS AND STUDENTS TAKE TO AVOID A MEDICAL EMERGENCY LIKE THIS?**

**A. A big percentage of parents and students miss the opportunity to establish a Durable Power of Attorney for Health Care and Health Care Directive. Most people don't automatically think of the concept as applicable for younger people as they might for themselves or for an older adult. People tend to overlook its benefits for a college student, even though the student has turned 18 and is now an adult.**

**Q. DON'T I NEED AN ATTORNEY FOR THE PAPERWORK?**

**A.** You can download the basic form off the state bar association of any state and complete the form yourself. While it's best to have an experienced attorney-at-law to consult with in these matters, especially for other estate planning documents, you don't need a lawyer to put this form into effect.

**Q. WHAT ARE THE KEY PARTS OF THE FORM?**

**A.** Your child will likely want to specify that you and your spouse are named "agent" so you can make decisions for your child if he or she lacks "capacity" (competence to reason and deliberate) to make or communicate them in the future. If you have family members closer to campus, you may want to also add them as alternates. Put signed copies on file with your primary health care provider, one in a safety deposit box and one in the glove compartment of your child's car if your child has one on campus.



### **Q. WHAT ABOUT A HEALTH CARE DIRECTIVE?**

**A.** That's generally part of the same form. Here the child can specify his or her wishes in advance about life-prolonging procedures if found to be persistently unconscious or at the end-stage of a serious incapacitating or terminal illness. This document also provides guidance and support to your Health Care Power of Attorney agent in case of emergency.

**Q. MY CHILD IS SPENDING SOME OF THE SEMESTER IN A FOREIGN COUNTRY – ARE THERE ANY SPECIAL CONSIDERATIONS THERE FOR SCHOOL-SPONSORED TRAVEL?**

**A. Make sure your child has health insurance in force. If they are covered under your employer’s health care plan, verify the school has the waiver you submitted to the institution earlier in the semester on file. You may want to call your insurance provider to make sure the health care insurance is in force in other countries.**

**Q. WHAT ELSE CAN SCHOOL FAMILIES DO?**

**A. Communicating the importance of these matters to young adults can be challenging, but it is worth making every effort. For instance, parents should also fill out the HIPAA Privacy Authorization form, which authorizes disclosure of protected health information on your son or daughter to you if needed. This would include matters involving alcohol or drug abuse treatment,**

mental health records and communicable diseases like HIV and AIDS. Remember, the child has to sign the form as well. You can obtain this document on state bar association websites.

Finally, you might use this moment to broach other sensitive topics. For instance, one consideration is making sure everyone's Health Care Directive on the back of the driver's license is up to date. Call your family attorney or find one experienced in these matters by calling the bar association to help you determine the documentation that needs to be in place.

### TAKEAWAYS

- **Make an effort to get a Durable Power of Attorney for Health Care and Health Care Directive in force for your child going away to college.**
- **While it's best to consult with an attorney, you don't need a lawyer to create the necessary forms.**
- **Put signed copies on file with your primary health care provider, one in a safety deposit box and a copy in the glove compartment of your child's car if your child has one on campus.**

\*Always consult with your CPA and professional advisor on matters involving income taxes.

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Bruce joined Commerce Trust Company in 2004 as senior trust counsel. He has more than 30 years of experience in the trust and investment management business in both legal and leadership roles. Bruce advises Commerce Trust on regulatory, trust administration, employee benefits and securities matters. He has oversight responsibility for the financial advisory services group, the Commerce Trust legal staff and the specialized services group. In addition, he is responsible for the risk management activities of the company and serves as the chief legal officer of Commerce Investment Advisors, a registered investment advisor. Bruce graduated from St. Olaf College in 1979 and received his juris doctorate from Washington University School of Law in St. Louis in 1983. In 2004, Bruce earned the right to use the Chartered Financial Analyst® designation. He is a member of the Missouri Bar, the Illinois Bar, the CFA Institute and the CFA Society of St. Louis.



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