

# MEDICAL SOCIETY OF THE STATE OF NEW YORK NEWS OF NEW YORK

Providing Information to Assist Physicians in the State of New York

Volume 75 • Number 2

[www.msnny.org](http://www.msnny.org)

March 2019

## Dear Doctors: Are You Sending Your College-Age Children Off With The Proper Legal Documentation In Place?

by Madelin Zwerling

You have reached that phase as a parent where your child is college-bound. Most, if not all, conversations with your child at this juncture revolve around this next chapter in your child's life. You feel relief as issues concerning roommate selection, dorm preference and area of study have been settled. You may even have moved on to the quest of obtaining highly coveted football tickets or lodging for the parents' weekend. Likely, the farthest thing from the minds of most parents and students leading up to move-in day are HIPAA laws and access to our child's medical and other personal information. But there are compelling reasons why one should focus on such issues.

As a general rule, as parents we have ready and lawful access to the medical and other personal information of our children until they turn 18 years old. Once our children turn the age of majority, however, which typically corresponds with their arrival at college, that access is turned off unless formal steps are undertaken. Yes, no doubt

the bursar's office at the university will regularly send you tuition bills and accept payment from you of such bills, but the university will not inform you if your child is in the infirmary or of your child's medical condition unless certain measures are in place. Nor will you have access to your child's academic status and grades. Even more disturbing, if your child ends up in a local hospital, for example, due to an accident or excessive alcohol consumption, you will be prevented from intervening on your child's behalf absent the requisite legal authority.

### **HIPAA AUTHORIZATION FORM**

These issues may easily be resolved if your child executes certain legal documents granting you such access. For example, your child can execute a HIPAA authorization form prior to leaving for college designating you as an individual who should be given access to his or her medical information and records. (These forms can be modified to exclude access to specified sensitive medical information or records.) Similarly, your child can execute a healthcare proxy

authorizing you to make medical decisions on his or her behalf in the event he or she becomes incapacitated and incapable of making such decisions for him or herself. Likewise, your child can execute a durable power of attorney giving you authority to act as your child's agent on other matters of significance, such as financial issues. This document can be particularly helpful if your child is studying abroad.

Your child's entry to college is stressful under the best of circumstances. Taking the measures described above, however, can take some of the edge off of that stress and at least alleviate some concerns that all parents experience.

*Madelin T. Zwerling is an attorney at Garfunkel Wild, P.C., which she joined in 2011, and a member of the Personal Services and Estate Planning Practice Group, which advises clients in the preparation of wills and trusts, as well as in estate administration and gift planning for the preservation of family businesses and wealth upon death, and related tax matters. She may be reached at [mzwerling@garfunkelwild.com](mailto:mzwerling@garfunkelwild.com) or (516) 393-2510.*



Medical Society of the State of New York