

# The Legal Strategist

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TEXAS ESOTERIC FACTS

For those who have college-age children, or those who soon will have, you may have a very unhappy and chaotic revelation; your 18 year old is no longer considered a minor, and, therefore, you have no access to their medical records, can not make medical or financial decisions for their benefit in case they are injured in an accident, contract a prolonged illness, or, heaven forbid, become permanently incapacitated. No need to worry, you can take the steps now to prevent this tragic situation.

According to newspaper accounts, the first powered airplane was flown in Texas nearly forty years before the Wright Brothers version in 1903. Inventor-pilot Jacob Brodbeck powered the plane with coil springs and reached treetop heights before crashing into a henhouse killing several chickens

The Feature Topic is a cursory review. If you would like more information on this, or any other topic previously covered in our newsletter, which can be viewed on [The Legal Strategist](#) tab of my web site, please contact my office.

Scott Barrett

## FEATURE TOPIC: ESSENTIAL DOCUMENTS FOR YOU COLLEGE -AGE CHILD

People assume they have more rights to their college-age children's information than they really possess. Even though your child is on your health insurance plan and you pay all of his or her medical bills, that does not entitle you to make medical decisions for them in case of an emergency or to get full details of their health crisis or injuries. You are probably not entitled to any information about their medical records – even for such things as a claim dispute. The same goes for their other “adult” decisions, such as financial, property and contract matters.

In a recent article in the Wall Street Journal titled “Why Your College-Age Children Need an Estate Plan,” an attorney shared a couple of other stories about clients who were unable to secure information about the medical condition of their college-age students.

In one situation, the clients' college-age sons were involved in a car accident that rendered them unconscious. It was not until their sons they regained consciousness a few days later and gave doctors permission to speak with their parents that the parents were able to secure any information about their condition.

In another situation, the clients' daughter remained in a coma for weeks, and her parents had to sue for guardianship of their own daughter before they could speak with doctors about her condition.

Your college students can authorize you to step in on their behalf by executing a Durable Power of Attorney, Medical Power of Attorney, and HIPAA Release authorization. These three documents are easy to prepare and are relatively inexpensive. Without these documents, you may not step in when your child needs you most. Encourage your child to get the following documents before heading off to school:

- ◆ Durable Power of Attorney: The Durable Power of Attorney will allow your child to authorize you to manage his or her financial affairs either immediately or in the future should he become mentally or physically unable to do so. This would authorize you to handle tasks such as paying bills, applying for social security or government benefits and opening and closing accounts.
- ◆ Medical Power of Attorney: The Medical Power of Attorney allows your child to authorize you to make medical decisions if he or she is incapacitated and unable to do so. An agent acting under a Medical Power of Attorney may see the principal's medical records to make informed medical decisions on his or her behalf.
- ◆ HIPAA Release: HIPAA (the Health Insurance Portability and Accountability Act of 1996) requires health care providers and insurance companies to protect the privacy of patient's health care information. Those who violate HIPAA are subject to civil and criminal penalties, including jail time, which makes them reluctant to share protected health information without an authorization.

Additionally, you may want to execute a FERPA Release, which allows you to get access to your child's educational related records.

Your child is transitioning into adulthood and therefore may be reluctant to provide what they perceive as continued authority. They are adults and treat them that way. Talk to them like an adult and explain what might happen if they have a medical emergency or need you to help with financial matters. Tell them they can revoke these documents. Lastly, discuss with them how and why such documents will be used.

Putting these documents in place can be one of the best things you can do for your children.

If you would like more information on these documents for your college-age children, please contact [Scott Barrett](#) to set up a consultation.