

# **DAVENPORT'S OREGON WILLS AND ESTATE PLANNING LEGAL FORMS**

**written by attorneys  
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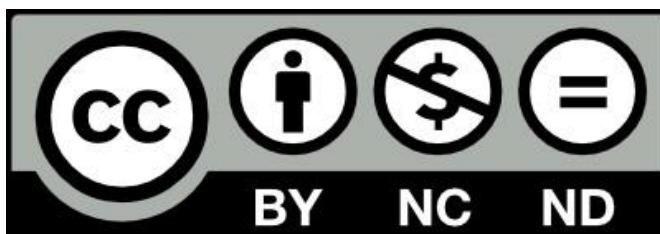
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# CHAPTER 1

## BOOK BASICS AND LIST OF FORMS

### ESTATE PLANNING CONTROLS THINGS IF LATER ABSENT, SICK, OR DEAD

From Davenport Publishing and written by attorneys this book is on “Estate Planning”, about doing legal documents to control health care, property, money, children, funeral, and more if later absent, sick, or dead. People have a legal right to control their health care, property, money, and family issues, and so judges, doctors, and others mostly just ask: “**Based on what a person wrote what did they likely want done?**”

### ESTATE PLANNING MOSTLY IS DOING SIMPLE THINGS IN 3 AREAS

Estate Planning is mostly doing simple things in 3 areas: Will Related, Health Care, and Giving Power. There are 9 ready to use legal forms for Oregon in this book. Many people use just 1 to 3 legal forms.

#### WILL RELATED FORMS

**Form 1. Will (Standard)** – a Will (also called a Last Will And Testament) lets a person control things after their death like who gets money and property, who is Executor, and say to use helpful legal options later.

**Form 2. Will (Guardian)** – Will with part added to name someone as Guardian to care for a minor child under 18 if needed (like if no parent is available) and also if needed manage their money and property.

**Form 3. Self-Proving Affidavit** – form sometimes done with Will to help prove it was properly signed.

**Form 4. Tangible Personal Property List** – lets person easily add to a Will more gifts to occur after death of tangible personal property like furniture, jewelry, vehicles, art, electronics, tools, and clothes.

#### HEALTH CARE FORMS

**Form 5. Advance Directive For Health Care** – lets someone be named Health Care Representative to control health care if needed, and also lets person take serious step of saying stop health care if later they’re incapacitated and doctors think health is bad and more care won’t help.

**Form 6. Portable Orders For Life-Sustaining Treatment** – does serious act of saying immediately from now on do not try some health care listed in the form like cardio-pulmonary resuscitation (C.P.R.).

#### GIVING POWER FORMS

**Form 7. Durable General Power Of Attorney** – lets power over money, property, and more be given to trusted person so they have power to do things, like use accounts, pay bills, get records, and sell property.

**Form 8. Power Of Attorney For Minor Children** – lets parent or guardian of child under 18 give power to someone over child to let them make decisions like with health care, school, and home issues.

**Form 9. Appointment Of Person To Make Decisions Concerning Disposition of Remains** – lets person be named to control a dead body and related issues (without this form by law closest family do this).

## **OREGON ESTATE PLANNING LAW APPLIES TO MOST PEOPLE HERE**

This book is for Oregon only. Estate Planning law and legal documents are a bit different in each state. Whether local Estate Planning law applies is based on a person's primary residence (often called "domicile"). Many judges say residence occurs if a person lives in a place and for a moment has no clear plans to leave. Later plans to move don't matter till people actually move. People can stay under a state's Estate Planning laws even if they leave a state if living elsewhere is temporary and people always have firm plans to return. For example some people who leave for months or more for travel, for school, for special work projects, and the military may qualify to keep ties to their old state. Immigrants of any kind can do normal Estate Planning. For health care people often do legal documents to match the state a hospital or other health facility is in.

## **BOOK IS SHORT, HAS FORMS TO QUICKLY SEE, AND USES EMPHASIS**

This book is short and may read rough but can be read fast. Long books often lead to misunderstanding of the basics and skimming. This book has legal forms people can quickly see. For emphasis paragraph titles, underlining, and boxes are used. This book capitalizes some legal words like Will, Testator, and Agent but this is optional. To save space some small words are skipped and end quote marks put before punctuation.

## **THIS BOOK COVERS MAJOR LEGAL IDEAS AND SHOULD SUIT MOST PEOPLE**

This book covers the big U.S. legal ideas on Estate Planning and major ways Oregon law is different. This book and its forms can't cover every issue that matters to everyone but should suit people without any strange situations or wishes about Estate Planning, which is likely most adults (maybe well over 80%). Strange situations or wishes that may need more research or a lawyer include: a) unusual wishes for gifts, b) wealth over \$5 million, c) big medical concerns including extreme age, d) property or money going to a person with disability or special needs, and e) wish to move or hide assets to qualify for government help.

## **LEGAL FORMS CAN HELP AND THIS BOOK PROVIDES "STANDARD FORMS"**

Studies on Estate Planning show a surprising 60% of adults have not done anything, 19% used a lawyer for this, and 21% used legal forms. Legal forms are good at most things involved in Estate Planning and can make binding legal documents that judges, doctors, families, banks, and others legally must follow. Also, often a hospital, state agency, charity, or state legislature has made a form most people use and call the "standard form", and doctors, judges, and others may not like to follow anything else. This book does use a standard form in an area if it exists or provides a suitable form. Lawyers often write their own forms.

## **ESTATE PLANNING OFTEN IS NOT VITAL AND WORTH SPENDING MUCH ON**

Despite what many people think Estate Planning often does not greatly change the costs, taxes, delays, and work involved in these areas, so it often is not vital and worth spending much money and energy doing. The benefits seem low for some since only about 4% of people die by age 50 often from a long illness, and only about 0.13% of children under 18 had both parents die to need big legal help. See *Social Security Tables: Felicitie Bell; Parent Mortality Census SIPP Paper #288*. Instead of legal forms lawyers can be used for Estate Planning but they can cost \$1000s, take months of work, and make mistakes. In life people often weigh costs, benefits, and risks and choose a cheaper option. Life insurance from an affordable company may be a better use of money, and many people pay for \$100,000 term life without exam ("simplified issue").

## **LEGAL DOCUMENTS MAY NEED TO BE “WITNESSED” OR “NOTARIZED”**

Legal documents to be valid may need to be “witnessed”, which is someone acting as witness watching person doing form sign and then witness signs. Documents may need to be “notarized”, which is person who is a “notary” (also called “notary public”) see signing and use ink stamp on page and then notary signs too. Notaries are found at some banks, brokers, insurance agents, courts, and government offices but they might be busy or they might only help existing customers. A helpful notary often can be found using a phonebook.

## **ANYONE CAN FILL IN MOST OF FORM, AND LATER TRY TO KEEP ORIGINAL**

When filling out a form except for signatures other parts can be filled in by a person not doing document, maybe because of a person’s good handwriting or typing. After a legal form is done usually a person tries to keep the original and only hand out copies but situations vary. Rather than copying some people have everyone sign multiple copies so there are many copies with ink signatures.

## **SOME LESS COMMON AND LESS USEFUL FORMS ARE NOT IN THIS BOOK**

This book skips some less common or less useful documents.

- A “Codicil” can modify a Will but it is easier and legally safer to just re-do a Will.
- Some people do a “Revocable Living Trust” so a Trust entity with Trustee holds property or money during their life however long, usually done to after death avoid small delay, costs, or work (by “avoiding probate”). This is rare as it requires immediately moving most of a person’s things into a Trust causing maybe years of hassles, mostly for small benefits for people who are probably happy to later do work to get things by Will.
- “Childrens Trust” papers can be done like in a Will so a Trust at a death gets money or property for a minor child to manage until 18, but this is uncommon due to possible cost and hassles, since it rarely matters (as this book explains), and since most Wills already arrange other legal help for young children.
- Some people do a “Pet Trust” to help a pet, but it’s easier to just give money in Will to person given a pet.
- Though separate forms exist most people handle Organ Donation in drivers license or state ID forms.

## **PROBABLY DO NEW FORMS IF DIVORCE, MARRY, HAVE CHILD, OR MOVE**

Divorcing, marrying, having a new child, or moving to a new state can have big legal effects. If any of these events occur it is recommended people do a new Will and other Estate Planning papers soon. To help most states say a Will from another state is still valid but this is not always certain.

## **NO FEDERAL OR OREGON TAX IS USUALLY OWED DUE TO A DEATH**

Usually no tax is owed as a result of a death, including no estate, inheritance, death, or similar taxes. This is because the Federal Estate And Gift Tax only starts when a tax credit is used up covering \$12.92 million a person in 2023 and later. Oregon does have an Estate Tax with rates from 10% to 16% but it does not tax any transfers to a spouse or a charity, and for other transfers at or after death it doesn’t tax the first \$1 million tax of these (this amount will probably increase after 2024). Most people in Oregon unless they’re rich probably don’t need to worry about owing more tax due to a death.

# CHAPTER 2

## TERMS, PROPERTY LAW, AND HELPFUL INFORMATION FORM

### THERE ARE BASIC TERMS AND IDEAS IN ESTATE PLANNING

Some legal terms and ideas are basic to Estate Planning.

■ “Estate Planning” is person doing legal documents to control things if later absent, sick, or dead. After a document is signed people are usually still free to sell or transfer property, instruct doctors, or change forms.

■ A “person doing a legal document” and “doing a form” means the form is for and affects that person. In a legal document the word “subscribe” means a person signed something, and “acknowledgment” means a person somehow showed someone like a notary or a witness they intended to do a document.

■ A “Will” or “will” (this book uses upper case “W”) is a legal document done to control issues after death. The phrase “Last Will And Testament” is used since a “Testament” long ago was a small document done along with a Will to do some things. If no Will is done a person is described as being “intestate”.

■ A person who died is called “decedent” or “deceased”. A person getting a Will gift is called “recipient”, “beneficiary”, or “heir” if related (they “inherit”). “Survive” or “surviving” is to be alive after someone died.

■ A person named to do things after someone’s death is usually called an “Executor”, but if a judge has to appoint someone to do things they are called an “Administrator”, and the term “Personal Representative” covers both these terms and is increasingly more often used in Wills and other papers.

■ A person doing a Will is called “Testator” or “Will maker”. Before about 1990 a woman Testator was called a “Testatrix” and woman Executor called an “Executrix” but this is no longer often done.

■ “Probate” is a legal process to do things after death like transfer property, authorize a Guardian, and handle creditors. Due to nice changes in law probate is now often informal, faster, and less expensive.

■ “Property” is either: 1) “real property” which is land and buildings (“real estate”), 2) “personal property” which is things not real property, like cash, accounts, stocks, tools, clothes, cars, jewelry, and art, or 3) “fixtures” which are things tied to real property (like fences, posts, lighting, and wired-in appliances).

■ Legal documents to control health care things are often called “Advanced Directives”, but names vary.

■ In Oregon a person under 18 is called a “minor” and often a parent or “Guardian” manages their affairs. A minor or other person not reasonably able to make wise decisions lacks “capacity” and is “incapacitated”.

■ Forms giving power to someone are often called “Power of Attorney” forms. The person giving power is called the “Principal” and person getting power is called the “Attorney-in-Fact” or “Agent”.

■ State law is called the “Oregon Revised Statutes”. An individual law is usually called a statute or section. An example of how to refer to a law is: “ORS 112.235” (where 112 is the chapter, and 235 is the section). A legal form written in state law for people to find and use if they want is called a “statutory form”.



## **“ESTATE” MEANS PROPERTY OF DECEDENT OR ENTITY HOLDING ITEMS**

The “Estate” or “probate estate” is all property and money of a dead person that at a death or soon after did not somehow legally automatically transfer to other owners. “Estate” is also the word for the temporary entity run by Executor to do things after a death (sort of like a small corporation). A dead person’s money and accounts might be renamed or moved to a bank under an Estate name, like “Estate of John Eric Hud”.

## **PERSON CAN ONLY GIFT IN WILL WHAT THEY OWN AT DEATH**

A person can only gift by Will things they own at death so people should research what they own. Basically by law a person usually owns all they earn as wages and salary, owns their share of income and profit tied to property they own, and owns or partly owns any things their money buys or improves. And for property with “title” documents (real estate or vehicles) or where there is a “listed owner” (like accounts) the named persons are usually the legal owners unless evidence shows special circumstances. Note, a person during life can sell property, make gifts, or transfer things even if items are named in a Will, so people should consider if they already sold or gave away property they also name in a Will gift.

## **THINGS OWNED IN SPECIAL WAYS MAY LIMIT GIFTING IN WILL**

A person should consider if they own real estate or other property in special ways which may limit gifting by Will. Laws in different states vary but some special joint ways are:

- “joint tenant with right of survivorship” or similar legal options, so then property transfers automatically to the other named owners regardless of a Will, which in some states is usually how the family house is held (in Oregon often married people do papers so if 1 spouse dies the surviving spouse gets the family house),
- papers say a “life estate” exists, so then if life of someone ends the other people in papers get item, and
- “Trust property” if paperwork made a Trust entity and property was actually transferred into it, so then the Trust papers control where things put in the Trust go on someone’s death.

Normal joint property can be gifted by Will, like “I give my half of boat to Paul Smith”. Joint ownership can occur if people do joint papers, agree to this, buy with joint funds, or if a gift was to multiple persons.

## **NON-PROBATE TRANSFERS THAT HAPPEN AUTOMATICALLY IGNORE A WILL**

Money or property of the deceased that for some reason automatically transfers on death or soon after to new owners is called “non-probate property”. Such things transfer as arranged even if a Will names the same items. Non-probate property examples are: a) a “designated beneficiary” form done before names person to get account or investment, b) transfer-on-death account, and c) real property is held by 2 people as “joint tenants with survivorship” or similar ways so the surviving person gets things.

Also, things in a Trust ignore a Will and will transfer as Trust papers say, and insurance benefits with a beneficiary ignore a Will. Trying to do non-probate transfers for all things is called “avoiding probate”, but few people try this since it may make living and paperwork a hassle for years, benefits are small, and often a small thing is missed. When doing a Will a person should consider non-probate transfers that will occur automatically on death and consider what property and money will be left to transfer by Will.

## **“HELPFUL INFORMATION” FORM HELPS TELL FAMILY AND FRIENDS THINGS**

Often people do a “Helpful Information” form that some financial planners, lawyers, and banks suggest so family and friends after a death know things. Often people staple records or lists to this. See next pages.

## ESTATE PLANNING HELPFUL INFORMATION

For more space attach copies of form or blank pages. Keep pages by Will or other place for Executor or family.

1. Personal Information (Name, Birthdate, Social Security #, special family details, other):
2. Real estate, vehicles, and other major tangible property (especially if people may not find them):
3. Non-tangible assets like stocks, accounts, investments, loans owed you, and business interests:
4. Possible income or insurance like pensions, retirement, disability, insurance, or contracts:

5. Debts owed by you like credit card, loan, student loan, mortgage, vehicle loan, and accounts payable:

6. Names and information of professionals used (attorneys, accountants, brokers, doctors, others):

7. Computer passwords and helpful files, document places, and safes or safe-deposit boxes codes/keys:

8. Other helpful things, wishes for funeral, special requests, and any last messages to family and friends:

# CHAPTER 3

## WILL BASICS

### WILL LETS “TESTATOR” CONTROL THINGS AFTER DEATH

A Will is done by a person to control some things after their death. A person doing a Will is called the “Testator” or “Will maker”. A Testator when signing must be at least 18 years old, of sound mind (rational with sufficient memory), and not be under duress (unfair pressure or threat). Most people can do a Will. People should keep Will so it can be found fairly quickly after a death, like within a couple weeks.

### SIGN WILL WITH 2 WITNESSES

#### A WILL IN OREGON TO BE VALID MUST BE WRITTEN AND HAVE 2 WITNESSES

To be a valid Will in Oregon a document must a) show it is meant as a Will, b) be written on paper or similar, and c) be signed at the end in front of 2 witnesses. In Oregon a “Video Will” or “Audio Will” has no legal effect. Unlike some states Oregon does not let people skip using witnesses if a Will is all handwritten. Oregon currently does not allow “electronic signing” or “remote signing” using computers, the internet, and video conferencing, though this may change in the future especially if another pandemic occurs.

#### WITNESSES SHOULD BE PEOPLE AT LEAST AGE 18

A person to act as a witness must be at least age 18. It is not required but preferable a witness not be old or live far away. Oregon law does let a person getting things in the Will act as a witness to the Will, but out of caution many people try to use as a witness people not getting any Will gifts. Most people also try to not use as a witness a person named in a Will as Executor, Guardian, Conservator, or other roles. Often used as witnesses are neighbors, friends, workers at a business, strangers, and maybe family.

#### TESTATOR AND 2 WITNESSES SIGN A WILL WHEN TOGETHER IN 1 ROOM

To do a valid Will in Oregon the person doing the Will must sign with 2 witnesses who then also sign which by law must be within a “reasonable time”, and usually people try to do this within 30 minutes or less. Everyone should be in 1 room and see all others sign. Witnesses and Testator showing an ID is not required but common. A Testator or witness should use their full legal name unless they dislike it and rarely used it. Testator need not initial the Will pages. The witnesses usually only read the 1 paragraph they sign below. People who can’t move a hand to sign should consult a lawyer. A Testator need not verbally tell people it is their Will, but if this is done it is usually called “publishing a Will”. Though not required often a Testator says a thing like, “My name is \_\_\_\_\_ and this is the Will I want and do voluntarily and want people to witness”. Some Testators chat with witnesses a few minutes about the Will to help show they know what they’re doing.

### KEEP SIGNED WILL IN SAFE PLACE IT CAN BE FOUND AFTER A DEATH

People should keep a Will so it can be found within days of a death, like in desk, drawer, safe, or less often a safe deposit box. It can be given to a person to hold. It may help to tell people where to find a Will and keys.

### MOST WILLS HAVE “MISCELLANEOUS” PART WITH HELPFUL LANGUAGE

Most Wills have “Miscellaneous” part with paragraphs of legal language to avoid some legal problems.

## **CANCELING OLD WILLS IS USUALLY NOT A PROBLEM**

So a new Will is followed old Wills should be canceled (“revoked”) but this is easy and rarely a problem. A new Will usually quickly says old Wills are revoked to cancel them, and all this book’s Will forms say this. A few people revoke a Will by writing “void” or “cancelled” or “X” on a Will, preferably with a witness to this. Usually crossing out just part of a Will has no effect, and revoking a Will doesn’t bring back an earlier Will.

## **MOST WILLS SAY PEOPLE MAY DO INFORMAL PROBATE**

Most Wills say people may later do “informal probate” which can avoid some costs and delays.

## **MOST WILLS SAY TO SKIP COSTLY BOND**

Most Wills helpfully say no “bond” or “surety” is required for any Executor, Guardian, or similar people. This is insurance bought from an insurance company to insure against misconduct. But the person writing a Will usually does not want a bond since the person named is trusted and insurance uses up estate assets.

### **IN WILL NAME EXECUTOR TO DO THINGS AFTER A DEATH**

#### **WILL NAMES “EXECUTOR” TO ACT AND HAVE POWER AFTER A DEATH**

Usually a Will names someone as “Executor” to act after a death like carry out gifts, handle debts, and do probate. The law gives Executors many powers and rights to do things, like collect and move money and property to new owners. If a Will does not name a person a judge can pick someone, but family may argue about who to pick. Naming 2 people to both do this job is possible but rare due to risk of arguments and delay, and since any 1 person named should be trusted. The person named Executor can get Will gifts.

#### **“PERSONAL REPRESENTATIVE” IS NEW NAME FOR EXECUTORS**

In Oregon the term “Personal Representative” is increasingly used in Wills and official legal papers for person handling things after a death, but most people and this book still mostly use the old term Executor.

#### **EXECUTOR CAN BE PAID, AND ESTATE PAYS FOR ALL THINGS**

An Executor can ask to be paid, and the pay they get is usually seen as fair for the many hours Executor often work. Oregon law says to normally pay Executor a bit over 2% of the value of the estate they handle. But people can modify a Will to avoid this, like by writing: “My Executor should be paid a fair hourly wage and not a percentage amount”. In reality Executors often don’t ask for pay for to avoid owing income tax and to leave more money to carry out Will gifts. Any lawyer hired by an Executor is usually paid by the hour. Money an Executor needs like for lawyers, fees, repairs, and other usual things comes from estate assets.

#### **EXECUTOR IS PERSON AT LEAST 18 AND SECOND PERSON RARELY NEEDED**

A person to be Executor must be 18 or older, and they need not be an Oregon resident or U.S. citizen but being local can make later work easier. Oregon law lets a person be Executor even if they have a felony criminal record unless a judge finds the crime shows “unfaithfulness and neglect” so they likely would do a bad job. Some people name a 2nd person to serve as Executor if the 1st person is unavailable, but most skip this since it’s rarely needed, if seen a new Will can be done, or a judge can pick someone. To add such a 2nd person words can be added, like: “or if they are reasonably unable to serve I name \_\_\_\_ to serve”.

## **OREGON LAW HELPFULLY SAYS PERSON MUST LIVE 120 HOURS TO GET GIFT**

Oregon law helpfully says a person not living 120 hours past the Testator is seen as having died before them for purposes of Will gifts. This avoids legal problems like items going to someone who quickly dies so items must be transferred again, and usually avoids need to know the exact time people die.

## **“INTESTATE” LAW SAYS WHERE THINGS GO AT DEATH IF THERE IS NO WILL**

State “intestate law” says where a dead person’s property and money left goes if there is no valid Will. Some people like what intestate law says and intentionally skip doing a Will. Intestate law basically gives things to closest surviving (living) family a decedent left. Note, by law if a family member is dead a surviving child of them often gets things in their place. Oregon law starting at ORS 112.025 basically says:

- if spouse and some children survive, spouse gets all if they are the blood or legally adopted parent of all these children, and spouse only gets 1/2 if they are not related to some children and children split the rest,
- if no children or grandchildren survive but a spouse survives, the spouse gets all,
- if no spouse or children survive but some grandchildren survive, the grandchildren get all,
- if no spouse, children, or grandchildren survive but some parents of decedent survive, the parents get all,
- if no spouse, children, grandchildren, or parents survive but some brothers and sisters of the decedent survive, the brothers and sisters get all,
- if none of the above named relatives of a decedent survive, then more distant surviving family of decedent get things and if no such family exist it goes to the State of Oregon (it “escheats”, which is very rare).

# **CHAPTER 4**

## **WILL GIFTS INCLUDING RESIDUE CLAUSE**

### **MAIN USE OF A WILL IS TO SAY GIFTS TO HAPPEN AFTER DEATH**

Most people use a Will to say what happens to their property and money after their death, usually by making various Will gifts. Verbal and even most written statements about this are not usually valid if outside a Will. A Will can control property acquired after it was signed.

### **GIFTING IN A WILL USING SIMPLE WORDS OFTEN IS BEST**

Making gifts in a Will using simple words is often best, using words like “I give to” and “I gift to”. This is legally fine and avoids confusing legal words like “bequest”, “devise”, and “legacy” which few people know.

### **A PERSON IS MOSTLY FREE TO GIFT THEIR THINGS AS WANTED**

People are mostly free to give at death their money and property as they want. But a spouse, minor children under age 18, and creditors owed money may have some rights which this book explains later.

### **IN WILL CAN DO “SPECIFIC GIFTS” TO GIFT PARTICULAR PROPERTY**

Most Wills have “specific gifts” to gift particular things. Specific gifts can be any property, like “I give boat to Ed Blom” and “I give UBank account #84553873 to Sue Wu”. If a gift is not clear the law assumes all of a kind of thing is given, like “I give jewelry to Ann Po” means all jewelry. But gifting specific property can have surprises like value of an item can change, or a Will gift may fail to occur since property is no longer owned.

### **IN WILL CAN DO “GENERAL GIFTS” LIKE OF MONEY**

Wills can do “general gifts” where what is gifted is not particular property but can be flexibly chosen, like “I give 1 of my 3 cars to Ed Po” which lets an Executor pick which car. The usual general gift is money, like “I give \$5 to Ed Vu”. Money gifts are easy to write, let equal gifts be made, and are safer since specific items might not be owned at death. To carry out money gifts an Executor uses accounts or sells some property.

### **“RESIDUE CLAUSE” IS CATCH-ALL THAT HELPFULLY GIFTS ANYTHING LEFT**

Most Wills by their end have a Residue Clause to gift property or money not gifted or used in Will or other way, sometimes called a “catch-all” or “left-over” clause. The Residue Clause is covered later in this Chapter.

### **PERSON IN WILL GIFT USUALLY MUST SURVIVE OR GIFT DOES NOT OCCUR**

Many Wills like this book’s Will forms say a person named in Will gifts must survive (live past) Testator for the gift to occur unless gift language specifically says different. If survival is not clearly required for a Will gift what then occurs if a named recipient is dead can be unclear (state laws can be very complex). People doing a Will should consider how Will gifts to people dying before Testator usually have no effect. People if they see a person in a Will gift has died can re-do a Will or just let the Residue Clause handle it.

### **CONDITIONS ON WILL GIFTS ARE RARE DUE TO POSSIBLE PROBLEMS**

Putting conditions on a gift, like “I give Ann Poe \$90 if she graduates college”, can cause problems like years of delay, risk of lawsuits, and big attorneys fees, and due to this conditions are rarely put on Will gifts.

## **SOME PEOPLE ADD “ALTERNATE BENEFICIARY” MAYBE FOR SPECIAL ITEMS**

A person in a Will gift dying before a Testator is rare, and if seen most people just re-do Will to add new person or let Will's Residue Clause handle it. Some people to prepare for this chance maybe for special items write in an alternate beneficiary, like “I give boat to Ed Wu but if they don't survive me to Ann Wu”.

## **PROPERTY OR MONEY IN A “JOINT GIFT” GOES TO MULTIPLE PEOPLE**

The same property or money in a “joint gift” can go to multiple people to each get a part interest, like “I give boat and all hats to Ann Wu and Sue Han” means each person owns 50% of every item. People later can split things by agreement or as Executor suggests, or Executor can just sell items and split the money. If a person in a joint gift has died their part of things usually is left to transfer under the Residue Clause.

## **GIFT BENEFICIARIES CAN GET PERCENTAGE RATHER THAN EQUAL SHARE**

If a Will gift goes to multiple people the law assumes equal shares, but if wanted percentages can be put to make unequal gifts, like “I give boat 90% to Ed Wu and 10% to Joe Hud”.

## **LATER DIVORCE OR MURDER CANCELS WILL GIFTS**

Oregon law says a person divorcing or murdering Testator usually cancels all Will gifts to the person.

## **WILL CAN SAY IF RECIPIENT DIES A GIFT GOES TO “LINEAL DESCENDANTS”**

A Will gift can say it goes to a person but if they don't survive then to their “lineal descendants per stirpes”. Descendants are a person's children and grandchildren. “Per stirpes” is about “how” to spread things and means “by branch”, and basically tries to divide things so each family branch gets mostly an equal share. Most Wills use “lineal descendants” language in a Residue Clause. An example shows how it works:

A Will may say: “**Clothes to Sue Wu but if they don't survive to their lineal descendants per stirpes**”, and this means if Sue Wu has died and her son Ken Wu is living and her other son Ben Wu has died but left 2 children then, legally, under the law Ken Wu himself gets 50% and Ben Wu's 2 children each get 25%.

## **OREGON LAW LETS PEOPLE ADD GIFTS IN A LIST**

Oregon law lets a person do a list apart from a Will to add more gifts of tangible personal property they want to occur after their death. This is explained later in this book.

## **AFTER A DEATH FAMILIES OFTEN LET PEOPLE TAKE ITEMS UNOFFICIALLY**

After a death many families unofficially let people take small items in ways a dead person mentioned, wrote on notes, put on stickers, or would have wanted, and this usually is not a problem unless someone objects. If anyone objects a judge usually will insist that property and money is handed out as a Will and other legal things specify, but after that the recipients are free to later hand out things in ways the decedent wanted.

## **CAN LEAVE SOME WILL GIFT LINES BLANK OR WRITE THINGS LIKE “SKIPPED”**

A person writing a Will can choose to not use some gifts lines in a Will legal form, like by just leaving them blank, writing things like “SKIPPED” or “NONE” in them, or using a computer to delete some gift lines. Judges and others usually do not care about neatness or empty spaces in Wills.



## RESIDUE CLAUSE GIFTING ALL LEFT IS MAIN WAY USED TO GIFT THINGS

### THE “RESIDUE CLAUSE” IS CATCH-ALL THAT HELPS GIFT ANYTHING LEFT

Most Wills by their end have a Residue Clause to gift any property or money not gifted earlier in a Will or used in other ways. Things transferred this way is called the “Residue”. Many people gift most their money and property this way by intentionally not mentioning in a Will most things so the Residue Clause handles it. Using the Residue Clause to give things avoids need to describe things and has less legal risk. Many people with a spouse or young children mostly use a Residue Clause and do not make many other gifts. Later after applying a Residue Clause if anything is left (which is rare) then closest heirs get things (this is closest family).

### USUAL RESIDUE CLAUSE HAS 2 PARTS

A short 2 part Residue Clause is usual and is used in this book’s Wills, and it has:

- 1) 1st space to name 1 or more persons to get things if they survive Testator (many name a spouse or closest family here), and if several people are named but only some survive then survivors split things, and
- 2) 2nd space to name persons to get things if all in 1st space don’t survive (so these are fallbacks) (many name next family or friends here), and if a person in 2nd space died their descendants get their share.

#### EXAMPLE OF 2 PART RESIDUE CLAUSE:

“RESIDUE CLAUSE: I give money and property not gifted earlier:

A) to my husband John Paul Doe if they survive me, then

B) to Sam Doe my son, Beth Wu my daughter, and Greta Fisher my friend and if any of those just named do not survive me their part goes to their lineal descendants, per stirpes.”

In this example if John Paul Doe has survived then he gets all things, but if John Paul Doe hasn’t survived and also Sam Doe hasn’t survived and he left 2 daughters then those 2 daughters split the 1/3 share of Sam Doe so get 1/6 each and other 2 persons in second part Beth Wu and Greta Fisher get 1/3 each.

### A FEW PEOPLE RE-WRITE A RESIDUE CLAUSE TO HAVE 1 PART

A normal Residue Clause of 2 parts is often fine and basically person put in 1st part usually gets things. A small fraction of people may want to modify a Will to have a “1 Part Residue Clause” which may gift to a group more equally. People with no spouse and no children are likelier to do this change, but even they often don’t bother and just use this book’s Will forms as is. See Example below for exact words to use if people want this change to a 1 Part Residue Clause.

#### EXAMPLE OF 1 PART RESIDUE CLAUSE:

“RESIDUE CLAUSE: The rest, residue, and remainder of my estate, property of any kind and nature, and anything I have an interest in, I give to Adam Doe and Beth Wu who survive me, and to lineal descendants per stirpes of any person just named who did not survive me.”

In this example if Adam hasn’t survived but had 2 children they each get 25%, and if Beth Wu survived she gets 50%. Or if Beth Wu also hadn’t survived and had 5 kids they split her part and each gets 10%.

## **MUST SUFFICIENTLY DESCRIBE NAMES AND PROPERTY IN WILL**

### **PUTTING NAMES OF PEOPLE OR GROUPS IN WILL GIFTS IS FAIRLY EASY**

Names in Wills are fairly easy. A judge and Executor assume a person means to name people they know so it's OK to use common names unless 2 friends or family use the same name. Details help if names won't be recognized or to be friendly, like "I give \$5 to maid Sue Lee" and "I give \$5 to my loyal pal Ed Hall". If people used a nickname "also known as" or "a/k/a" may help, like "I give \$5 to Ed Smith a/k/a Old Fishy". Gifts can go to a charity, government, or group, like "I give \$5 to The Salvation Army, "I give \$50 to Baker County, Oregon", and "I give \$500 to Lob Church in Hart, TX". People often phone to get a charity's name.

### **DESCRIPTIONS OF ITEMS IN WILL GIFTS IS FAIRLY EASY**

Describing items in gifts is easy since people rarely own similar items, so often fine is "I give ax to Ed Wu" and "I give big table to Ann Fox". It's OK to gift by category or list, like "I give tools to Sam Dodd" and "I give cow, van, and piano to Sue Vix". Financial assets can use plain words, like "bank accounts" or "stocks", but some details can help, like "UBank account ending #1511". Using item location is risky as judges might ignore Will gifts if it seems items were placed to affect gifting and not "independently significant" life reason. So, "I give Ed Po items in safe and desk" a judge may not follow, but "I give Ed Po hats at cabin" likely is OK.

### **DESCRIBING REAL PROPERTY IS HARD SO MANY USE RESIDUE OR TITLE**

The legally safest way to gift real property (real estate) at death is: 1) do nothing specific so it's all done by a Will Residue Clause, or 2) have a broker or lawyer add names to land title papers to get real property. Gifting real property other ways is rarely done and hard, though there are ways. Helpfully a Will gift of real property by location does gift all land, buildings, and fixtures there with no need to describe what's there.

Giving real property using a "legal description" is how some lawyers do it, but it can be many lines of words. A legal description can be lot based, like: "Lot 2, Block 8, Rex Subdivision as per the plat on file and of record in the Clerk's Office of Lane County, Oregon (in particular property Tax Account No. 02-01 4103-023-0990)". Or a legal description may be an old fashioned description, like: "Begin at NE corner of NE 1/4 of SW 1/4, Section 12, Township 27N Range 32E, Willamette Meridian, then East 79°22' for 18 ft to point marked with an iron stake, then South 188°64' for 50 ft, then Due West for 18 ft, then to point of beginning".

It is less common to gift real property with plain words, like a house by "I give 21 Ivy Rd., Canby, OR to John Ian Lee", or land like "I give all real property in Lane Co., OR to Sue Ann Hu". Often both address and legal description are used. Some people do a blanket gift, like "I give all real property and fixtures I own to \_\_\_\_\_".

### **SIMPLE WILL WITH MOST GIFTING DONE BY RESIDUE CLAUSE IS OFTEN BEST**

Writing a simple Will without many gifts and much left blank and then using Residue Clause is often best.

If there is a spouse often people do very small gifts to friends and other family, then use the Residue Clause of Will to gift mostly to their spouse, and then name a few fallback persons in the Residue Clause.

If there is no spouse and no child often people do a few small gifts, then gift family or friends the Residue.

A parent with young children if married to other parent often gifts Residue to spouse, and as fallback gifts the Residue to the children -- or if not married to other parent they gift to children using the Residue Clause.

# CHAPTER 5

## DEBT, MARRIAGE, AND YOUNG CHILD ISSUES

### DEBT ISSUES

#### PAYING DECEDENT'S DEBTS MAY USE UP RESOURCES AND REDUCE GIFTS

Creditors a decedent owed can ask a judge to be paid from decedent's money and property before Will gifts and other transfers are done. How Executor must pay debts is set by state law and a Will's language need not cover this and can skip this. Resources to pay creditors comes from the decedent's property and estate so may affect (in order) Will Residue, Will general gifts like money, Will specific gifts, and non-probate transfers. Some debts like for probate, attorney, funeral, and health care may have priority to be paid first. A spouse and family usually aren't personally liable for decedent's debts unless they guaranteed or co-signed. People should consider how paying debts may use up money or property, leaving less to carry out Will gifts.

#### BEFORE DEBTS ARE PAID MAY COME SOME FAMILY RIGHTS

Most states have "family rights" to give family things before most debts are paid and a Will is carried out. Under Oregon law at ORS 114.015 the "Support Allowance" right lets family ask a judge to give them some of decedent's money and property if they need support. Often a judge gives 2 years of support especially if children clearly need it and even if it interferes with some Will gifts. A judge often gives a spouse less since they can use the "Elective Share" (this book covers this later). But if the estate is not enough to pay debts of decedent the Support Allowance is limited to one half of the estate, but this still means family get something. As said below usually a family can stay in the house 1 to 1.5 years even if they are not receiving the house. And for small estates there are ways for family to skip full formal probate, which may let them get money and property without having to pay all creditors. Obviously if all these family rights are used this leaves less to carry out Will gifts or other transfers. Most people by Will and other ways give mostly to any spouse or young children (like over 50% and any family home), including so family don't bother to claim family rights.

#### THE FAMILY HOME OFTEN GOES TO FAMILY

Often a person who owns a house where family live puts a spouse or minor children on the title so they get it if the person dies. Or often a Will gives the family home to family. Importantly, under Oregon law the "Year Possession Of House" right often lets family stay 1 year in their house if decedent owned it, and family just has to pay insurance and property taxes, and often this is stretched to 1.5 years. See ORS 114.005. Not giving family the house can cause hurt feelings and in rare cases legal problems. Laws mostly protect a house from creditors except those with a house mortgage, home equity loan, or proper mechanics lien. For many reasons most people give a house where family are to a spouse or if there's no spouse to children.

#### SECURED DEBTS LIKE MORTGAGE OR VEHICLE LIEN ARE NOT PAID OFF

Most Wills (like the Will forms in this book) and Connecticut law says not to pay off secured debts like a house mortgage or vehicle lien on a decedent's property even if other debts will be paid off. This is done to not use up a lot of estate resources paying off big debts. But if wanted a Testator can a) gift in Will money to pay such debts, or b) put in Will an order to pay (like, "I order home mortgage paid off"). People getting a thing with a secured debt usually either decide to make monthly payments or choose to give up the property.

## MARRIAGE ISSUES

### MOST STATES USE “SEPARATE PROPERTY LAW” FOR SPOUSES

Most states including Oregon use the “Separate Property Law” system saying married people mostly own all their money and property separately and not jointly with a spouse. So in Oregon a spouse is technically free to sell during life or gift in Will their things. But joint ownership by 2 spouses can arise in ways (like by paying half a purchase price, by agreement, a gift is to both spouses, or spouses do joint ownership papers). And many married people do land title papers to hold a house a certain way so on a spouse’s death it then automatically goes to the other spouse.

### “COMMUNITY PROPERTY” LAW APPLIES IN OTHER STATES FOR SPOUSES

There are 9 states mostly in West and South U.S.A. that use “Community Property” law for spouses there (Arizona, California, Louisiana, Idaho, Nevada, New Mexico, Texas, Washington, and Wisconsin). This law says property or money is owned 50/50 by spouses as “Community Property” if it comes from physical or mental effort while living there and married (like labor or wages, management of a business, or active trading of a collection or stocks) or if it was bought or improved with other Community Property. Most people in Oregon avoid these issues unless they recently moved from any of these states.

### “JOINT WILL” SIGNED BY BOTH SPOUSES IS NOT RECOMMENDED

Some couples sign 1 “Joint Will” or “Contract To Make A Will” done by lawyer which says spouses gives all to the other if they die first, then says last living spouse gives to all children equally, and usually says a spouse may not change this. This is not recommended, banned in some states, and few people do this.

### A SPOUSE CAN SEEK “ELECTIVE SHARE” OF THEIR DEAD SPOUSE’S THINGS

Many states give a spouse if unhappy with what a Will and other transfers may give them a right to choose (elect) an “Elective Share” of a dead spouse’s property and money rather than take what a Will gives them. Many states do this for fairness, so a surviving spouse has resources to live on, and so early divorce isn’t the only way to feel financially secure. In Oregon the Elective Shares starts at 5% of a dead spouse’s money and property, and after 2 years of marriage this starts to increase till it reaches 33% after 15 years of marriage. To avoid legal tricks by law the Elective Share may cover items a deceased spouse recently gave away or controlled but didn’t own. Note, if a spouse uses the Elective Share to claim 33% or so of decedent’s money and property this uses up money and property so obviously might interfere with other transfers to others. To be nice and avoid a spouse wanting to use the Elective Share most married people gift by Will and other ways well over 1/3 of their money and property to any spouse (like over 50% and any family house).

## YOUNG CHILD ISSUES

### WILL CAN NAME PEOPLE TO CARE FOR YOUNG CHILD AND THEIR PROPERTY

If a parent dies with a child under 18 the other natural or adopted parent (not step-parent) automatically gets control of the child's care including health care, school, and home, unless that parent is unavailable or proven unfit in court which is rare. But in case it is needed (like if later both parents die) a Will often names a "Guardian" to do this care for child, and often picked is a healthy and willing family member or friend.

Also, since a child until age 18 can't legally manage money or property often Wills name some person to if needed act as "Conservator" and manage property and money and say how to use these for a child's costs (like school, living, and health care costs) till usually 18 when all left goes to the child. Some states and most people use the term "Guardian of the Estate" for this. Judges often hold a yearly hearing to review spending. People paying things for a child usually can ask to be paid back from the child's money and property.

This book's Will forms and most parents in Oregon name the same person to care for a child as Guardian and, also, manage things as Conservator. People can modify a Will to name different people if they want. But naming a different person is not usually worth the bother since parents dying is rare, a child usually gets things only if both parents are dead so a Guardian will be involved, and a Guardian if they disagree on spending with Conservator may be angry and complain and even try to sue to get certain things paid.

Note, most Wills at the end also say the Executor may let a "Custodian" they pick manage a young child's property and money, spend it for their benefit, and at 18 give the child anything left. This is allowed by the new and helpful "Uniform Transfers To Minors Act" law that lets a Custodian do most financial things a Conservator normally does but avoids most costs, work, paperwork, and court hearings that people dislike.

### PERSON MUST BE 18 TO HELP AND ALTERNATE PERSON RARELY IS NEEDED

A person must be at least 18 to be a Guardian or Conservator. They needn't be a state resident or U.S. citizen but being local makes work easier. The choice of people by the last living parent usually is followed. If no Will picks a person for a position or they're unavailable a judge can pick, but family may argue about this. A judge may later block or remove a person who is doing a bad job or seems unsuitable like for past crimes. Naming 2 people for a position to help a child to act at the same time is rare since the 2 may argue and any 1 person named is trusted, but some people name 2 people in a stable marriage. Some Wills add a 2nd person in case the 1st person is unavailable, like maybe by adding: "or if they are reasonably unable to serve I name \_\_\_\_\_ to serve"). But many people skip naming an additional person since it is rarely ever needed, if a problem is seen a Will can be re-done, and a judge always can name a person to fill a position.

### PICKING GUARDIANS RARELY MATTERS DESPITE PARENTS WORRYING

A young child having parents die is rare so parents shouldn't worry that much about this. A very large U.S. study of 311,900 people found 72,240 were under 18 and of these 2014 had lost 1 parent (2.78%) and just 97 both parents (just 0.13%), so losing parents is very rare. *Parent Mortality Census SIPP Paper #288.*

# CHAPTER 6

## BASIC IDEAS ABOUT HEALTH CARE FORMS

### SOME BASIC IDEAS HELP PEOPLE UNDERSTAND HEALTH CARE FORMS

Some ideas help people understand health care forms.

- By law people control their health care unless “incapacitated” by sufficient inability to a) communicate verbally or by notes, b) be rational, or c) be conscious. Unless incapacitated people just tell doctors what health care they want. In actuality most people keep control of health care till death or till no big options remain, but people worry they may be incapacitated a long time so they do health care forms.
- Parents do have power over health care of their child under age 18.
- If an adult 18 or older becomes incapacitated the adult’s closest family like spouse or adult child can make emergency decisions but they usually must then rush to a judge to get further power if no form gives them power over health care.
- In forms a person can be named to have control of health care if needed who is often called “Agent”.
- In forms people can give written health care instructions doctors, family, Agent, and others must obey.
- Some **married people** do a form to give a spouse power over health care if they are incapacitated. Some **young adults** give this power to parents. **Young people** are less often ill so often skip doing things.
- Pain relief like pain drugs and comfort care is usually given even if forms say to stop or limit other care.
- Most often people do 1 fairly long health care form with spot to give someone power over health care and spot for instructions. Names for the form vary. Other forms are usually only done by oldest or sickest people.
- For rare cases stopping health care (“pulling the plug”) likely matters due to type of illness or extreme age:
  - most people do nothing special and trust family or Agent to decide on stopping care based on changing complex factors like pain, cost, hassle, suffering and time of treatment, beliefs, and chances of recovery;
  - a few people do a serious document to say to stop most health care if **later** doctors decide a person is incapacitated, in a terminal condition or unlikely to regain good consciousness, and more care won’t help (this form is often called a “Living Will” but names vary and sometimes this is done as part of another form);
  - a few people do a serious document to starting **immediately** block health care listed in the form (this is often called a “Do-Not-Resuscitate” if just about “resuscitation” or a “Physician’s Order” if about many treatments).
- This book has 2 legal forms about health care, which are 1) Advance Directive For Health Care form which really covers 2 things, and 2) Portable Orders For Life-Sustaining Treatment form.

# CHAPTER 7

## FORM 1: LAST WILL AND TESTAMENT (STANDARD)

### FORM 1 IS A STANDARD WILL THAT IS FLEXIBLE AND WITHOUT A GUARDIAN

Form 1 is a standard Will that is flexible and lets person control some things after their death. This form has no part about a Guardian so this form is for a person with no minor child under age 18.

### FORM IS A WILL WITH SEVERAL PARTS

This form has places for a person to put their name (a full legal name is best but not required) and write current main residence (most write a county but some put a city). The Will is still valid if people later move.

The 1st paragraph, "Gifts", has many spaces to make either specific gifts of particular property or general gifts like of money. People can delete, copy and paste to add more, or leave blank these gift lines.

The 2nd paragraph, "Separate Writings", says to follow any separate writings done apart from the Will that gifts tangible personal property in manner allowed by state law.

The 3rd paragraph, "Residue", has a Residue Clause to say any property and money left after other Will parts and any other transfers is gifted to persons as the Residue Clause directs.

The 4th paragraph, "Administration", has a space to name an Executor to handle matters after a death, but the newer term "Personal Representative" is used here for this.

The 5th paragraph, "Miscellaneous", has paragraphs of legal language to help avoid certain legal issues.

Last is paragraph for person doing Will to sign, and paragraph for 2 witnesses to sign and put addresses.

### USUAL RESIDUE CLAUSE HAS 2 PLACES TO NAME PERSONS TO GET THINGS

In a Will "Residue Clause" anything left after other Will parts is transferred as the clause directs.

Many people use Residue Clause to gift most or even all things. In this Will form's Residue Clause there is:

- 1) a 1st space to name 1 or more persons to get the Residue, and if any named here have not survived and died before the Will maker then any other persons named here take their share,
- 2) a 2nd space to name people to get things if all in 1st space died before Will maker, and if any people named here didn't survive their shares go to "lineal descendants" like their children.

Most people name in 1st space a spouse or closest family or closest friends, and in 2nd space next closest family or friends. This may seem complicated but usually those in 1st area of Residue Clause get things.

### TESTATOR AND 2 WITNESSES WHILE TOGETHER SIGN WILL

This Will after being filled out (except bits intentionally left blank) must be signed by person doing the Will (called the Testator) in front of 2 persons acting as witnesses at least age 18, and then these witnesses also must sign within a reasonable time. Testator and witnesses should be in 1 room and see each person sign. Witnesses usually just read the 1 paragraph they sign. The form has spots to write addresses of witnesses. Testator and witnesses showing an ID is not required but common. Testator need not initial the Will pages. Though not required often Testator says a thing like, "My name is \_\_\_\_\_ and this is my Will that I do voluntarily and want you 2 people to witness". Once completed a Will should be kept so it can found quickly within weeks of the Testator's death.

# LAST WILL AND TESTAMENT

I, \_\_\_\_\_, of \_\_\_\_\_, Oregon, do revoke all prior Wills, Testaments, and Codicils, and do make, publish, and declare this as my Will. I am of sound mind and under no duress or undue influence and acting voluntarily.

**1. GIFTS.** I give these gifts in this Will, but to get a gift in this section the recipient must survive me except as otherwise stated below.

I give \_\_\_\_\_ to \_\_\_\_\_.

I give \_\_\_\_\_ to \_\_\_\_\_.

I give \_\_\_\_\_ to \_\_\_\_\_.

I give \_\_\_\_\_ to \_\_\_\_\_.

I give \_\_\_\_\_ to \_\_\_\_\_.

I give \_\_\_\_\_ to \_\_\_\_\_.

I give \_\_\_\_\_ to \_\_\_\_\_.

I give \_\_\_\_\_ to \_\_\_\_\_.

I give \_\_\_\_\_ to \_\_\_\_\_.

I give \_\_\_\_\_ to \_\_\_\_\_.

**2. SEPARATE WRITINGS.** I may do writings separate from this Will to gift tangible personal property as allowed by state law including Oregon Revised Statutes 112.260, and such writings should be followed. This Will does not revoke any such writings that exist. A gift in such a writing to a person who does not survive me is canceled and has no effect. Any such writing not found within 90 days of my death is canceled and has no effect.

**3. RESIDUE.** I give the rest and residue and remainder of my estate, my money and property of any kind and nature, and anything I have an interest in so long as it was not transferred by other Will provisions (all of which is called the “residue”), as follows:

a) to \_\_\_\_\_ who survive me with persons just named who survive me taking the share of non-survivors, then

b) to \_\_\_\_\_ and if any of those just named do not survive me their part goes to their lineal descendants per stirpes.



**4. ADMINISTRATION.** I name and appoint \_\_\_\_\_ as Personal Representative including for me, my Will, and my estate, to serve without bond.

**5. MISCELLANEOUS.** The following applies to this Will and generally.

My main residence is in Oregon and Oregon law should apply to this Will.

Priority of Will gifts of the same type is based on the order they are written.

In this document no unfilled part is a mistake and residue spaces may be left blank.

The words “give” and “gift” also means a devise, bequest, grant, legacy, or similar.

A gift of property no longer owned by Testator at death shall lapse and be of no effect including no payment of money shall be done in its place, all without ademption.

If a gift or section in this Will reasonably mentions survival in any way then survival is an absolute condition and anti-lapse laws or similar have no effect.

Unless a Will gift specifies otherwise if a Will gift goes to multiple recipients if any do not survive Testator their part to them lapses and instead goes to other surviving recipients.

Any failure to make more or any Will gifts to current children or current spouse at the time I do this Will is intentional and not a mistake to remedy.

No gift or transfer I made during my life to a person reduces or offsets a Will gift, unless during my life I expressly usually called it a loan or advancement.

Unless another meaning is shown by context use of plural includes the singular and vice versa, and also masculine, feminine, and neuter words are used interchangeably.

Unless another meaning is shown “they” means both one person and multiple persons.

Unless a Will specifically says otherwise a) a secured debt including a mortgage or lien shall not be paid off including by a Personal Representative or in probate, b) a recipient of a Will gift of property takes it subject to any debts, c) no recipient of a Will gift who later loses property gifted to them to a debtor or who pays to avoid foreclosure or other loss may require the estate or anyone to pay recipient back, do exoneration, or do or pay anything.

I request and authorize any informal, summary, and quick probate or similar action. Any Personal Representative may act independently with no supervision of any court, including independent administration, and without doing any action or filings in court.

I give any Personal Representative a) the fullest authority, powers, and discretion allowed by state law, b) authority to lease, sell, mortgage, convey, or retain property including real property in any such manner and time they deem helpful or proper, and c) authority to settle or pay claims or debts at any time they in their sole discretion choose. Any Personal Representative shall also have all powers found in Oregon law existing on the date of this Will including ORS 114.305 and any other powers hereafter given by law.

A Personal Representative shall have sole discretion how to balance people’s feelings and pick property or divide a gift to carry out a general gift or a gift to multiple persons.

If context permits the terms Personal Representative, Executor, and Administrator

are interchangeable as if all were written, and Conservator is interchangeable with Guardian of the Estate. The terms Residue and Residuary are also interchangeable.

I request any lawyers be paid hourly or a fixed sum and not by any percentage.

The residue includes lapsed or failed gifts, insurance paid to the estate, any inheritances owed, and property I have or had a power of appointment or testamentary disposition over.

Any Personal Representative, Executor, Administrator, Guardian of any type, Conservator, Custodian, and any fiduciary under this Will or otherwise shall qualify and serve without bond, surety, security, or any similar thing.

If part of this Will is by law invalid or unenforceable other provisions remain in effect.

A Personal Representative may at any time transfer money or property of any minor under age 18, or any other thing or money, to a Custodian to serve under the Oregon Uniform Transfers to Minors Act or similar laws anywhere. A Personal Representative may select the Custodian including themselves but if they do not I name for this the person named Guardian in this Will.

### **TESTATOR**

IN WITNESS WHEREOF, I, the Testator, publish, declare, and sign this instrument as my Will which I make voluntarily this \_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Testator signature

### **WITNESSES**

The foregoing instrument was signed by the Testator in our presence and declared by the Testator to be the Testator's Will, who, to the best of our knowledge, was at that time of sound and disposing mind and memory and not acting under the fraud, duress, or undue influence of any person whomsoever, and we, the undersigned witnesses, sign our names hereunto as witnesses at the request and in the presence of the Testator, and in the presence of each other on the \_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Witness signature

\_\_\_\_\_  
Witness address

\_\_\_\_\_  
Witness signature

\_\_\_\_\_  
Witness address

# CHAPTER 8

## FORM 2: LAST WILL AND TESTAMENT (GUARDIAN)

### FORM 2 IS BASIC WILL WITH GUARDIAN CLAUSE FOR YOUNG CHILD

Form 2 is a Will with a Guardian part to be used by a person with a minor child under age 18.

### FORM IS A WILL WITH SEVERAL PARTS

This form has places for a person to put their name (a full legal name is best but not required) and write current main residence (most write a county but some put a city). The Will is still valid if people later move.

The 1st paragraph, "Gifts", has many spaces to make either specific gifts of particular property or general gifts like of money. People can delete, copy and paste to add more, or leave blank these gift lines.

The 2nd paragraph, "Separate Writings", says to follow any separate writings done apart from the Will that gifts tangible personal property in manner allowed by state law.

The 3rd paragraph, "Residue", has a Residue Clause to say any property and money left after other Will parts and any other transfers is gifted to persons as the Residue Clause directs.

The 4th paragraph, "Administration", has a space to name an Executor to handle matters after a death, but the newer term "Personal Representative" is used here for this.

The 5th paragraph, "Guardian", names a Guardian to care for any minor child if needed (like if no parent is available later), and also names a Conservator to manage a minor child's money and property.

The 6th paragraph, "Miscellaneous", has paragraphs of legal language to help avoid certain legal issues.

Last is paragraph for person doing Will to sign, and paragraph for 2 witnesses to sign and put addresses.

### USUAL RESIDUE CLAUSE HAS 2 PLACES TO NAME PERSONS TO GET THINGS

In a Will "Residue Clause" anything left after other Will parts is transferred as the clause directs.

Many people use Residue Clause to gift most or even all things. In this Will form's Residue Clause there is:

- 1) a 1st space to name 1 or more persons to get the Residue, and if any named here have not survived and died before the Will maker then any other persons named here take their share,
- 2) a 2nd space to name people to get things if all in 1st space died before Will maker, and if any people named here didn't survive their shares go to "lineal descendants" like their children.

Most people name in 1st space a spouse or closest family or closest friends, and in 2nd space next closest family or friends. This may seem complicated but usually those in 1st area of Residue Clause get things.

### TESTATOR AND 2 WITNESSES WHILE TOGETHER SIGN WILL

This Will after being filled out (except bits intentionally left blank) must be signed by person doing the Will (called the Testator) in front of 2 persons acting as witnesses at least age 18, and then these witnesses also must sign within a reasonable time. Testator and witnesses should be in 1 room and see each person sign. Witnesses usually just read the 1 paragraph they sign. The form has spots to write addresses of witnesses. Testator and witnesses showing an ID is not required but common. Testator need not initial the Will pages. Though not required often Testator says a thing like, "My name is \_\_\_\_\_ and this is my Will that I do voluntarily and want you 2 people to witness". Once completed a Will should be kept so it can found quickly within weeks of the Testator's death.

# LAST WILL AND TESTAMENT

I, \_\_\_\_\_, of \_\_\_\_\_, Oregon, do revoke all prior Wills, Testaments, and Codicils, and do make, publish, and declare this as my Will. I am of sound mind and under no duress or undue influence and acting voluntarily.

**1. GIFTS.** I give these gifts in this Will, but to get a gift in this section the recipient must survive me except as otherwise stated below.

I give \_\_\_\_\_ to \_\_\_\_\_.

I give \_\_\_\_\_ to \_\_\_\_\_.

I give \_\_\_\_\_ to \_\_\_\_\_.

I give \_\_\_\_\_ to \_\_\_\_\_.

I give \_\_\_\_\_ to \_\_\_\_\_.

I give \_\_\_\_\_ to \_\_\_\_\_.

I give \_\_\_\_\_ to \_\_\_\_\_.

I give \_\_\_\_\_ to \_\_\_\_\_.

I give \_\_\_\_\_ to \_\_\_\_\_.

I give \_\_\_\_\_ to \_\_\_\_\_.

**2. SEPARATE WRITINGS.** I may do writings separate from this Will to gift tangible personal property as allowed by state law including Oregon Revised Statutes 112.260, and such writings should be followed. This Will does not revoke any such writings that exist. A gift in such a writing to a person who does not survive me is canceled and has no effect. Any such writing not found within 90 days of my death is canceled and has no effect.

**3. RESIDUE.** I give the rest and residue and remainder of my estate, my money and property of any kind and nature, and anything I have an interest in so long as it was not transferred by other Will provisions (all of which is called the “residue”), as follows:

a) to \_\_\_\_\_ who survive me with persons just named who survive me taking the share of non-survivors, then

b) to \_\_\_\_\_ and if any of those just named do not survive me their part goes to their lineal descendants per stirpes.

**4. ADMINISTRATION.** I name and appoint \_\_\_\_\_ as Personal Representative including for me, my Will, and my estate, to serve without bond.

**5. GUARDIAN.** I name and appoint \_\_\_\_\_ as Guardian of any minor child including if needed to have control, authority, and custody of them, and I also name and appoint this same person as Conservator for any minor child and the minor child's property, money, and estate. They shall serve without bond.

**6. MISCELLANEOUS.** The following applies to this Will and generally.

My main residence is in Oregon and Oregon law should apply to this Will.

Priority of Will gifts of the same type is based on the order they are written.

In this document no unfilled part is a mistake and residue spaces may be left blank.

The words "give" and "gift" also means a devise, bequest, grant, legacy, or similar.

A gift of property no longer owned by Testator at death shall lapse and be of no effect including no payment of money shall be done in its place, all without ademption.

If a gift or section in this Will reasonably mentions survival in any way then survival is an absolute condition and anti-lapse laws or similar have no effect.

Unless a Will gift specifies otherwise if a Will gift goes to multiple recipients if any do not survive Testator their part to them lapses and instead goes to other surviving recipients.

Any failure to make more or any Will gifts to current children or current spouse at the time I do this Will is intentional and not a mistake to remedy.

No gift or transfer I made during my life to a person reduces or offsets a Will gift, unless during my life I expressly usually called it a loan or advancement.

Unless another meaning is shown by context use of plural includes the singular and vice versa, and also masculine, feminine, and neuter words are used interchangeably.

Unless another meaning is shown "they" means both one person and multiple persons.

Unless a Will specifically says otherwise a) a secured debt including a mortgage or lien shall not be paid off including by a Personal Representative or in probate, b) a recipient of a Will gift of property takes it subject to any debts, c) no recipient of a Will gift who later loses property gifted to them to a debtor or who pays to avoid foreclosure or other loss may require the estate or anyone to pay recipient back, do exoneration, or do or pay anything.

I request and authorize any informal, summary, and quick probate or similar action. Any Personal Representative may act independently with no supervision of any court, including independent administration, and without doing any action or filings in court.

I give any Personal Representative a) the fullest authority, powers, and discretion allowed by state law, b) authority to lease, sell, mortgage, convey, or retain property including real property in any such manner and time they deem helpful or proper, and c) authority to settle or pay claims or debts at any time they in their sole discretion choose.

Any Personal Representative shall also have all powers found in Oregon law existing on the date of this Will including ORS 114.305 and any other powers hereafter given by law.

A Personal Representative shall have sole discretion how to balance people's feelings and pick property or divide a gift to carry out a general gift or a gift to multiple persons.

If context permits the terms Personal Representative, Executor, and Administrator are interchangeable as if all were written, and Conservator is interchangeable with Guardian of the Estate. The terms Residue and Residuary are also interchangeable.

I request any lawyers be paid hourly or a fixed sum and not by any percentage.

The residue includes lapsed or failed gifts, insurance paid to the estate, any inheritances owed, and property I have or had a power of appointment or testamentary disposition over.

Any Personal Representative, Executor, Administrator, Guardian of any type, Conservator, Custodian, and any fiduciary under this Will or otherwise shall qualify and serve without bond, surety, security, or any similar thing.

If part of this Will is by law invalid or unenforceable other provisions remain in effect.

A Personal Representative may at any time transfer money or property of any minor under age 18, or any other thing or money, to a Custodian to serve under the Oregon Uniform Transfers to Minors Act or similar laws anywhere. A Personal Representative may select the Custodian including themselves but if they do not I name for this the person named Guardian in this Will.

### **TESTATOR**

IN WITNESS WHEREOF, I, the Testator, publish, declare, and sign this instrument as my Will which I make voluntarily this \_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Testator signature

### **WITNESSES**

The foregoing instrument was signed by the Testator in our presence and declared by the Testator to be the Testator's Will, who, to the best of our knowledge, was at that time of sound and disposing mind and memory and not acting under the fraud, duress, or undue influence of any person whomsoever, and we, the undersigned witnesses, sign our names hereunto as witnesses at the request and in the presence of the Testator, and in the presence of each other on the \_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Witness signature

\_\_\_\_\_  
Witness address

\_\_\_\_\_  
Witness signature

\_\_\_\_\_  
Witness address

## **CHAPTER 9**

### **FORM 3: SELF-PROVING AFFIDAVIT**

#### **FORM CAN BE DONE WITH WILL TO REDUCE LATER LEGAL WORK**

This form is sometimes done to help with the later legal work involved with using a Will after a death. This form must be done in front of a notary by the Testator who did the Will and the 2 witnesses who saw the Will signed.

#### **FORM HELPS TO LATER SHOW WILL WAS PROPERLY SIGNED**

This form helps after a death when trying to use a Will to prove it was properly signed. If a Self-Proving Affidavit form isn't done more work may be needed later, like later a witness to the Will must say in court or submit a writing about how the Will was signed (or if this is not available other proof may be given). If this form is not done there is more risk a Will is not followed later. Of people doing Wills about half skip doing a Self-Proving Affidavit mostly due to the hassle of using a notary each time a Will is done, and since it mostly just saves later minor work of people who are probably happy to do work to get things using a Will. Some other states have no Self-Proving Affidavit for Wills and manage fine without it.

#### **FORM IS DONE BY TESTATOR AND 2 WITNESSES SIGNING WITH A NOTARY**

To do a Self-Proving Affidavit form a notary (also called "notary public") must see the form signed by the Testator and the 2 witnesses to the Will signing, and then notary signs and notarizes the form. The form is often done within minutes of when Will is signed but it also can be done any time later (even months later) when Testator and 2 witnesses can meet a notary. The notary will know how to fill out the form and how to have people show a proper ID. In a form the word "subscribe" means a person signed something and "acknowledgment" means a person somehow showed they intended to do a document. A notary can be found at some libraries, banks, insurance agents, agencies, courts, and photocopying or package businesses. But often a notary is too busy to help and people may want to use a phonebook to find a notary with time to help. Once done the Self-Proving Affidavit is often kept with the Will it supports.

# SELF-PROVING AFFIDAVIT

STATE OF OREGON )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

I, \_\_\_\_\_, the Testator, declare to the officer taking my acknowledgment of this instrument and to the subscribing witnesses that I signed the foregoing Will as a Testator doing their Will.

Signature of Testator

We, the persons who sign below, being sworn do say for each of us: On the date of the foregoing Will of \_\_\_\_\_ in our presence the Testator of this Will signed it and declared it to be the Testator's Will; whereupon at the Testator's request and in the Testator's presence we attested the Will by subscribing our names to this Will. To the best of our knowledge and belief the Testator was at the time they signed the Will over 18 years of age and of sound mind.

\_\_\_\_\_  
Witness signature

Witness address

Witness signature

---

Witness address

ACKNOWLEDGED AND SUBSCRIBED before me by the Testator named \_\_\_\_\_ who is personally known to me or who has produced \_\_\_\_\_ as identification, and sworn to and subscribed before me by the witness named \_\_\_\_\_ who is personally known to me or who has produced \_\_\_\_\_ as identification, and sworn to and subscribed before me by the witness named \_\_\_\_\_ who is personally known to me or who has produced \_\_\_\_\_ as identification, and subscribed by me in the presence of the Testator and the subscribing witnesses, all on the \_\_\_\_ day of the month of \_\_\_\_\_, in the year \_\_\_\_\_.

Notary Public: State of Oregon



# CHAPTER 10

## FORM 4: TANGIBLE PERSONAL PROPERTY LIST

### LETS GIFTS OF SOME PROPERTY BE EASILY MADE OUTSIDE A WILL

This form lets people before or after a Will is done easily add some gifts of property they want to occur after their death. This form is often called by people a “Memorandum”, a “Gift List”, or often just a “List”.

### FORM GIVES EASY QUICK WAY TO WRITE MORE GIFTS

This List form lets a person before or after a Will has been done easily write some gifts of property to occur after their death without having to re-do a Will. To use a List the law says a valid Will must say Lists can be used, and all this book’s Will forms say this. If a List and a Will gift the same item then by law the Will is followed. If multiple Lists gift the same item the more recent List controls. People can make changes to a List page if they write a new date and signature, but many people prefer to do 1 long writing with the same date to reduce a chance of later confusion. To help reduce delay this book’s form says a List not found within 90 days of a death will be ignored. Note, a person with a spouse or young children may not want to use Lists to give much to people other than them.

It may help understanding to show the Oregon law allowing Lists, ORS 112.260, which says:

112.260 Reference in will to statement or list disposing of certain effects; admissibility; alteration.

(1) Except as otherwise provided in a valid Will, a Will may refer to a writing that contains a statement or list disposing of household items, furniture, furnishings and personal effects. Money, property used in trade or business, and items evidenced by documents or certificates of title may not be disposed of under this section.

(2) To be admissible under this section as evidence of the intended disposition, the writing must:

- (a) Be referred to in the Testator’s Will;
- (b) Be signed by the Testator; and
- (c) Describe the household items, furniture, furnishings, personal effects and the devisees with reasonable certainty.

(3) A writing under this section may be referred to as a writing that is or will be in existence at the time of the testator’s death and may be prepared before or after the execution of the Testator’s Will.

(4) A writing under this section may be altered by the Testator one or more times after the initial creation of the writing and may be a writing that has no significance apart from the writing’s effect on the dispositions made by the Will.

(5) As used in this section, “writing” includes an electronic record, document or image.

### FORM CAN ONLY GIFT “TANGIBLE PERSONAL PROPERTY”

By law the form can only gift “tangible personal property”, so only tangible (touchable) things, and not most accounts or investments where ownership is tied to papers or some entity like a corporation or trust. The form can’t gift “real property” (land or buildings), coin or paper money however old, or property used in a trade or business. Improper property in a List is ignored. Most people use a List to gift clothes, furniture, cars, boats, building materials, things used in a hobby, electronics, appliances, antiques, art, and jewelry.

### TO COMPLETE GIFT LIST A PERSON JUST SIGNS AND DATES IT

A List form just must be signed and dated by person who is doing it. Once completed any List form pages are often kept with a Will. To cancel a List it can be thrown away or destroyed or just crossed out.

## **TANGIBLE PERSONAL PROPERTY LIST**

In this writing are gifts of tangible personal property to occur after my death, but this writing if not found by someone within 90 days of my death is canceled.

I may do multiple pages of these writings which should be seen as 1 document with the more recently done page controlling if any gifts conflict.

If a person getting a gift below does not survive me such gift is void and canceled.

### **PROPERTY ITEMS**

### **NAMES OF RECIPIENTS**

_____	to	_____
_____	to	_____
_____	to	_____
_____	to	_____
_____	to	_____
_____	to	_____
_____	to	_____
_____	to	_____
_____	to	_____
_____	to	_____
_____	to	_____
_____	to	_____
_____	to	_____
_____	to	_____
_____	to	_____
_____	to	_____

**DATE:** \_\_\_\_\_

**SIGNED:** \_\_\_\_\_

# CHAPTER 11

## FORM 5: ADVANCE DIRECTIVE FOR HEALTH CARE

### FORM CAN COVER MANY HEALTH CARE ISSUES

This form can cover many health care issues. This is a standard form by the Public Health Division of the Oregon Health Authority, and it basically is the statutory form found in law at ORS 127.529. People can fill out the form by hand or can find an online version that can be filled in by computer. [www.oregon.gov/oha](http://www.oregon.gov/oha). This form does what is often 2 separate forms in other states. Note, some people do a shorter statutory form found in law at ORS 127.527 and found online called the “Form For Appointing Health Care Representative” which is very similar but skips all parts talking about instructions and wishes.

### IN FIRST PART A “REPRESENTATIVE” CAN BE GIVEN POWER OVER CARE

In the form’s first part a person can be named as “Health Care Representative” to make health care decisions if person doing the form is ever incapacitated (by inability to communicate, be rational, or stay conscious long). Often named Representative is a spouse, adult child, other family member, or a friend. Many other states call this a “Health Care Power Of Attorney”. Naming a family member in this form can avoid their need to rush to see a judge for power in an emergency. Health care workers usually should not do this unless they are related. The Representative can see health care records and give orders to doctors.

### IN REST OF FORM INSTRUCTIONS AND WISHES CAN BE STATED

In the rest of the form health care instructions and wishes can be stated. This starts with instructions if a person is later incapacitated and doctors think the person a) has a terminal illness, b) has an advanced progressive illness, or c) is permanently unconscious. A person can pick certain options about stopping care in this occurs. The rest of the form has places to state wishes and feelings about health care and life. But many people skip using this form to do anything but name a Representative, and this is done since most people do not later face complicated health situations, deciding these issues is stressful and hard, and most people trust their Representative or family to make wise decisions if needed. And if a person writes things that are not clear this can cause later legal problems.

### PERSON SIGNS FORM IN FRONT OF A NOTARY OR 2 WITNESSES

The form is signed by a person in front of a person who is a notary who then notarizes the form, or in front of 2 persons acting as witnesses who then also sign it. A witness can’t be named as a Health Care Representative in the form and can’t be the person’s health care provider or physician. If a person is in a long term care facility at least 1 witness must be specially qualified by the Department of Human Services. Often used as a witness is a friend, distant family, or a stranger. Once it is done the form usually is quickly shown to places that may give care so it can be put in the person’s medical file to follow. To cancel the form a person usually should tell all places shown the form that it is now canceled. The form has a spot for the person named Health Care Representative to later sign before they actually use the form.

## Oregon Advance Directive for Health Care

**This Advance Directive form allows you to:**

- Share your values, beliefs, goals and wishes for health care if you are not able to express them yourself.
- Name a person to make your health care decisions if you could not make them for yourself. This person is called your health care representative and they must agree to act in this role.

**Be sure to discuss your Advance Directive and your wishes with your health care representative.** This will allow them to make decisions that reflect your wishes. It is recommended that you complete this entire form.

**The Oregon Advance Directive for Health Care form and Your Guide to the Oregon Advance Directive are available on the Oregon Health Authority's website.**

- In sections 1, 2, 5, 6 and 7 you appoint a health care representative.
- In sections 3 and 4 you provide instructions about your care.

**The Advance Directive form allows you to express your preferences for health care.** It is not the same as Portable Orders for Life Sustaining Treatment (POLST) as defined in ORS 127.663. You can find more information about the POLST in Your Guide to the Oregon Advance Directive.

**This form may be used in Oregon to choose a person to make health care decisions for you if you become too sick to speak for yourself** or are unable to make your own medical decisions. The person is called a health care representative. If you do not have an effective health care representative appointment and you become too sick to speak for yourself, a health care representative will be appointed for you in the order of priority set forth in ORS 127.635 (2) and this person can only decide to withhold or withdraw life sustaining treatments if you meet one of the conditions set forth in ORS 127.635 (1).

**This form also allows you to express your values and beliefs with respect to health care decisions and your preferences for health care.**

**If you have completed an advance directive in the past, this new advance directive will replace any older directive.**

**You must sign this form for it to be effective.** You must also have it witnessed by two witnesses or a notary. Your appointment of a health care representative is not effective until the health care representative accepts the appointment.

**If your advance directive includes directions regarding the withdrawal of life support or tube feeding,** you may revoke your advance directive at any time and in any manner that expresses your desire to revoke it.

**In all other cases,** you may revoke your advance directive at any time and in any manner as long as you are capable of making medical decisions.

## Advance Directive Form

1. About me		
Name (first, middle, last):		Date of birth:
Telephone numbers: Home	Work	Cell
Address:		E-mail:

2. My health care representative		
I choose the following person as my health care representative to make health care decisions for me if I can't speak for myself.		
Name (first, middle, last):		Relationship:
Telephone numbers: Home	Work	Cell
Address:		E-mail:

I choose the following people to be my alternate health care representatives if my first choice is not available to make health care decisions for me, or if I cancel the first healthcare representative's appointment.

First alternate health care representative		
Name (first, middle, last):		Relationship:
Telephone numbers: Home	Work	Cell
Address:		E-mail:

Second alternate health care representative		
Name (first, middle, last):		Relationship:
Telephone numbers: Home	Work	Cell
Address:		E-mail:

### 3. My health care instructions

This section is the place for you to express your wishes, values and goals for care. Your instructions provide guidance for your health care representative and health care providers.

You can provide guidance on your care with the choices you make below. This is the case even if you do not choose a health care representative or if they cannot be reached.

#### A. My health care decisions

There are three situations below for you to express your wishes. They will help you think about the kinds of life support decisions your health care representative could face. For each, choose the one option that most closely fits your wishes.



**a. Terminal condition**

This is what I want if:

- I have an illness that cannot be cured or reversed

**AND**

- My health care providers believe it will result in my death within six months, regardless of any treatments.

**Initial one option only**

- |       |  |
|-------|--|
| _____ | I want to try all available treatments to sustain my life, such as artificial feeding and hydration with feeding tubes, IV fluids, kidney dialysis and breathing machines.   |
| _____ | I want to try to sustain my life with artificial feeding and hydration with feeding tubes and IV fluids. I do not want other treatments to sustain my life, such as kidney dialysis and breathing machines.                |
| _____ | I do not want treatments to sustain my life, such as artificial feeding and hydration with feeding tubes, IV fluids, kidney dialysis or breathing machines. I want to be kept comfortable and be allowed to die naturally. |
| _____ | I want my health care representative to decide for me, after talking with my health care providers and taking into account the things that matter to me. I have expressed what matters to me in section B below.           |

**b. Advanced progressive illness**

This is what I want if:

- I have an illness that is in an advanced stage.

**AND**

- My health care providers believe it will not improve and will very likely get worse over time and result in death.

**AND**

- My health care providers believe I will never be able to:
  - » Communicate
  - » Swallow food and water safely
  - » Care for myself
  - » Recognize my family and other people

Initial one option only	
_____	I want to try all available treatments to sustain my life, such as artificial feeding and hydration with feeding tubes, IV fluids, kidney dialysis and breathing machines.
_____	I want to try to sustain my life with artificial feeding and hydration with feeding tubes and IV fluids. I do not want other treatments to sustain my life, such as kidney dialysis and breathing machines.
_____	I do not want treatments to sustain my life, such as artificial feeding and hydration with feeding tubes, IV fluids, kidney dialysis or breathing machines. I want to be kept comfortable and be allowed to die naturally.
_____	I want my health care representative to decide for me, after talking with my health care providers and taking into account the things that matter to me. I have expressed what matters to me in section B below.

**c. Permanently unconscious**

This is what I want if:

- I am not conscious.

**AND**

- If my health care providers believe it is very unlikely that I will ever become conscious again.

Initial one option only	
_____	I want to try all available treatments to sustain my life, such as artificial feeding and hydration with feeding tubes, IV fluids, kidney dialysis and breathing machines.
_____	I want to try to sustain my life with artificial feeding and hydration with feeding tubes and IV fluids. I do not want other treatments to sustain my life, such as kidney dialysis and breathing machines.
_____	I do not want treatments to sustain my life, such as artificial feeding and hydration with feeding tubes, IV fluids, kidney dialysis or breathing machines. I want to be kept comfortable and be allowed to die naturally.



\_\_\_\_\_ I want my health care representative to decide for me, after talking with my health care providers and taking into account the things that matter to me. I have expressed what matters to me in section B below.

You may write in the space below or attach pages to say more about what kind of care you want or do not want.

### **B. What matters most to me and for me**

This section only applies when you are in a terminal condition, have an advanced progressive illness or are permanently unconscious. If you wish to use this section, you can communicate the things that are really important to you and for you. This will help your health care representative.

This is what you should know about what is important to me about my life:

This is what I value the most about my life:

This is what is important for me about my life:

I do not want life-sustaining procedures if I can not be supported and be able to engage in the following ways:

**Initial all that apply**

\_\_\_\_\_ Express my needs

\_\_\_\_\_ Be free from long-term severe pain and suffering

\_\_\_\_\_ Know who I am and who I am with

\_\_\_\_\_ Live without being hooked up to mechanical life support

\_\_\_\_\_ Participate in activities that have meaning to me, such as:

If you want to say more to help your health care representative understand what matters most to you, write it here. (For example: I do not want care if it will result in...)

### **C. My spiritual beliefs**

Do you have spiritual or religious beliefs you want your health care representative and those taking care of you to know? They can be rituals, sacraments, denying blood product transfusions and more.

You may write in the space below or attach pages to say more about your spiritual or religious beliefs.

## **4. More information**

Use this section if you want your health care representative and health care providers to have more information about you.

### **A. Life and values**

Below you can share about your life and values. This can help your health care representative and health care providers make decisions about your health care. This might include family history, experiences with health care, cultural background, career, social support system and more.

You may write in the space below or attach pages to say more about your life, beliefs and values.

### **B. Place of care**

If there is a choice about where you receive care, what do you prefer? Are there places you want or do not want to receive care? (For example, a hospital, a nursing home, a mental health facility, an adult foster home, assisted living, your home.)

You may write in the space below or attach pages to say more about where you prefer to receive care or not receive care.

**C. Other**

You may attach to this form other documents you think will be helpful to your health care representative and health care providers. What you attach will be part of your Advance Directive.

You may list documents you have attached in the space below.

**D. Inform others**

You can allow your health care representative to authorize your health care providers to the extent permitted by state and federal privacy laws to discuss your health status and care with the people you write in below. Only your health care representative can make decisions about your care.

Name (first, middle, last):		Relationship:
Telephone numbers: Home	Work	Cell
Address:		E-mail:

**5. My signature**

---

My signature

---

Date**6. Witness**

Complete either A or B when you sign

**A. Notary**

State of \_\_\_\_\_

County of \_\_\_\_\_

Signed or attested before me on \_\_\_\_\_ by \_\_\_\_\_  
Date\_\_\_\_\_  
Notary Public State of Oregon**B. Witness Declaration**

The person completing this form is personally known to me or has provided proof of identity, has signed or acknowledged the person's signature on the document in my presence and appears to be not under duress and to understand the purpose and effect of this form. In addition, I am not the person's health care representative or alternative health care representative, and I am not the person's attending health care provider.

\_\_\_\_\_  
Witness name (print)\_\_\_\_\_  
Signature\_\_\_\_\_  
Date\_\_\_\_\_  
Witness name (print)\_\_\_\_\_  
Signature\_\_\_\_\_  
Date

## 7. Acceptance by my health care representative

I accept this appointment and agree to serve as health care representative.

### Health care representative:

\_\_\_\_\_  
Printed name

\_\_\_\_\_  
Signature or other verification of acceptance

\_\_\_\_\_  
Date

### First alternate health care representative:

\_\_\_\_\_  
Printed name

\_\_\_\_\_  
Signature or other verification of acceptance

\_\_\_\_\_  
Date

### Second alternate health care representative:

\_\_\_\_\_  
Printed name

\_\_\_\_\_  
Signature or other verification of acceptance

\_\_\_\_\_  
Date

**Document accessibility:** For individuals with disabilities or individuals who speak a language other than English, OHA can provide information in alternate formats such as translations, large print, or braille. Contact the Health Information Center at 1-971-673-2411, 711 TTY or [COVID19.LanguageAccess@dhsosha.state.or.us](mailto:COVID19.LanguageAccess@dhsosha.state.or.us).

# CHAPTER 12

## FORM 6: PORTABLE ORDERS FOR LIFE-SUSTAINING TREATMENT

### FORM SAYS STARTING IMMEDIATELY DO NOT TRY SOME HEALTH CARE

The Portable Orders For Life-Sustaining Treatment, often called the “P.O.L.S.T.” form, says that starting immediately do not try some health care listed in the form. This form is rarely used, and usually only by the sickest or oldest people. The form is short and can be read fast (like by paramedics) and is often used outside a hospital or other facility, but it can be used inside these places too. This P.O.L.S.T. form in Oregon and many places has mostly replace a Do-Not-Resuscitate form which is similar but only says to not try to resuscitate people. Many people call the P.O.L.S.T. form the new Do-Not-Resuscitate form.

### FORM SAYS TO IMMEDIATELY NO LONGER TRY CERTAIN HEALTH CARE

In the form a person can say starting immediately certain medical care shouldn't be tried if they're later incapacitated and health personnel are deciding what care to give. This form is rarely used, and usually only by the sickest or oldest people. Usually a person's doctor signs this form and often helps explain it. The main thing the form does is say to not try to "resuscitate" to restart heart or breathing which covers things like cardio-pulmonary resuscitation (C.P.R.) which is pressing chest and blowing air into lungs, electric shock to restart heart or establish a stable heartbeat, and forcing air into lungs by machines. There are many other medical treatments a person can say in the form to not try. A person with capacity still thinking fine can override the form like by saying this to doctors or not showing it to paramedics. If a person falls ill even if they have a P.O.L.S.T. form they are still usually taken to get care since pain relief and other comfort care is still usually provided.

### FORM IS SIGNED BY A DOCTOR AND PERSON DOING THE FORM

The form must be signed by doctor or similar health professional, and also by person doing the form or someone with authority for them. Doctors have copies of the form on pink paper that must be used. Once done a form usually is shown to places that may give health care so they can follow it. Some people keeps copies handy for themselves or family to show paramedics and others who may want to give care. A copy of the pink form might be kept on bedside table, on a home fridge, pinned to a shirt or in a pocket, or some people wear a special bracelet that doctors can help order. To cancel the form usually a person tells all places shown the form it is canceled.



## Oregon POLST®

Portable Orders for Life-Sustaining Treatment\*

Follow these medical orders until orders change. Any section not completed implies full treatment for that section.

Patient's Last Name: <b>Patient's Last Name</b>	Suffix:	Patient's First Name: <b>Patient's First Name</b>	Patient's Middle Name:
Preferred Name:	Date of Birth: (mm/dd/yyyy) <b>Date / of Birth</b>	Gender: <input type="checkbox"/> M <input type="checkbox"/> F <input type="checkbox"/> X	MRN (optional)
Address (street / city / state / zip):			

<b>A</b> Check One	<b>CARDIOPULMONARY RESUSCITATION (CPR):</b> <i>Unresponsive, pulseless &amp; not breathing.</i>
	<input type="checkbox"/> <b>Attempt Resuscitation/CPR</b> <input type="checkbox"/> <b>Do Not Attempt Resuscitation/DNR</b> Must check Full Treatment in Section B.      If patient not in cardiopulmonary arrest, follow orders in B.

<b>B</b> Check One	<b>MEDICAL INTERVENTIONS:</b> <i>When patient has a pulse and is breathing.</i>
	<input type="checkbox"/> <b>Comfort Measures Only.</b> Provide treatments to relieve pain and suffering through the use of any medication by any route, positioning, wound care and other measures. Use oxygen, suction and manual treatment of airway obstruction as needed for comfort. <b>Patient prefers no transfer to hospital for life-sustaining treatments. Transfer if comfort needs cannot be met in current location.</b> <b>Treatment Plan: Provide treatments for comfort through symptom management.</b>  <input type="checkbox"/> <b>Selective Treatment.</b> In addition to care described in Comfort Measures Only, use medical treatment, antibiotics, IV fluids and cardiac monitor as indicated. No intubation, advanced airway interventions or mechanical ventilation. May consider less invasive airway support (e.g. CPAP, BiPAP). <b>Transfer to hospital if indicated. Generally avoid the intensive care unit.</b> <b>Treatment Plan: Provide basic medical treatments.</b>  <input type="checkbox"/> <b>Full Treatment.</b> In addition to care described in Comfort Measures Only and Selective Treatment, use intubation, advanced airway interventions and mechanical ventilation as indicated. <b>Transfer to hospital and/or intensive care unit, if indicated.</b> <b>Treatment Plan: All treatments including breathing machine.</b>  <b>Additional Orders:</b> _____

<b>C</b> Check All That Apply	<b>DISCUSSED WITH: (REQUIRED)</b>
	<input type="checkbox"/> Patient <input type="checkbox"/> Parent of minor <input type="checkbox"/> Relative, friend or other support person (without written appointment) - See reverse side for additional requirements for completion in persons with intellectual or developmental disabilities. <input type="checkbox"/> Person appointed on advance directive <input type="checkbox"/> Court-appointed guardian  List all names and relationship: _____

<b>D</b>	<b>PATIENT ACKNOWLEDGEMENT (RECOMMENDED BUT NOT REQUIRED)</b>
	Signature: _____ Name (print): _____ Relationship (write "self" if patient): _____  This form will be sent to the POLST Registry unless the patient wishes to opt out. To opt out, check here. <input type="checkbox"/>

<b>E</b>  Must Print Name, Sign & Date	<b>ATTESTATION OF MD / DO / NP / PA / ND (REQUIRED)</b>
	By signing below, I attest that these medical orders are, to the best of my knowledge, consistent with the patient's <b>current</b> medical condition and preferences.
	Print Signing MD / DO / NP / PA / ND Name: <b>required</b> Signer's Phone Number: _____      Signer's License Number: (optional)  MD / DO / NP / PA / ND Signature: <b>required</b> Date: <b>required</b> "Signed" means a physical signature, electronic signature or verbal order documented per standard medical practice. Refer to OAR 333-270-0030

SEND FORM WITH PATIENT WHENEVER TRANSFERRED OR DISCHARGED  
 SUBMIT COPY OF BOTH SIDES OF FORM TO REGISTRY IF PATIENT DID NOT OPT OUT IN SECTION D



**Information Regarding POLST****PATIENT'S NAME:** \_\_\_\_\_

The POLST form is:

- **Always voluntary and cannot be required**
- **A medical order for people with a serious illness or frailty**
- An expression of wishes for emergency treatment in one's current state of health (if something happened today)
- A form that can be changed at any time, with a health care professional, to reflect new treatment wishes
- **NOT an advance directive**, which is ALSO recommended. An advance directive is the appropriate legal document to appoint a health care representative. See ORS 127.527

**Contact Information (Optional)**

Emergency Contact:	Relationship:	Phone Number:
--------------------	---------------	---------------

**Health Care Professional's Information**

Preparer's Name	Preparer's Title	Phone Number:	Date Prepared:
-----------------	------------------	---------------	----------------

Primary Care Professional's Name

**Directions for Health Care Professionals****Completing Oregon POLST®**

- Discussion and attestation should be accompanied by a note in the medical record.
- Any section not completed implies full treatment for that section.
- An order for CPR in Section A requires an order for Full Treatment in Section B, or the form will not be accepted into the Registry.
- Photocopies, faxes and electronically-signed forms are legal and valid.
- Verbal / phone orders from MD/DO/NP/PA/ND in accordance with facility/community policy can be submitted to the Registry.
- For information on determining the legal decision maker(s) for patients who lack capacity and have not appointed a health care representative, **refer to ORS 127.635**
- A person with intellectual or developmental disabilities requires additional considerations before completing the POLST form. Refer to **Guidelines on POLST Use for Persons with Significant Disabilities who are Now Near the End of Life** at: [osf.io/f852b](https://osf.io/f852b)

**Registry Contact Information:**

Toll Free: 1-877-367-7657  
 Fax or eFAX: 503-418-2161  
[orpolstregistry.org](http://orpolstregistry.org)  
[polstreg@ohsu.edu](mailto:polstreg@ohsu.edu)

Oregon POLST Registry  
 3181 SW Sam Jackson Park Rd.  
 Mail Code: BTE 234  
 Portland, OR 97239

**Patients:**

The Registry will mail a confirmation packet to the address listed on the front page in about four weeks.

**Updating POLST: POLST forms should be reviewed regularly.****A POLST form needs to be revised or voided if patient treatment preferences have changed.**

POLST forms should be reviewed routinely, including when:

- The patient is transferred from one care setting or care level to another (including upon admission or at discharge), or
- There is a substantial change in the patient's health status.

If patient wishes have not changed, the POLST form does not need to be revised, updated, rewritten or resent to the Registry.

**Voiding POLST: A copy of the voided POLST must be sent to the Registry unless patient opted out.**

- A person with capacity, or the legal decision maker of a person without capacity, can void the form and request alternate treatment.
- For paper forms, draw a line through sections A through E and write "VOID" and the date. *Note:* Revising a POLST form automatically replaces a previous form in the Registry.
- If included in an electronic medical record, follow your system's ePOLST voiding procedures.
- Regardless of paper or ePOLST form, send a copy of the voided form to the POLST Registry (required unless patient opted out).

For permission to use the copyrighted form, contact  
 OHSU Center for Ethics in Health Care  
 at: [polst@ohsu.edu](mailto:polst@ohsu.edu) or (503) 494-3965.

Information on the Oregon POLST Program is available  
 online at: [oregonpolst.org](http://oregonpolst.org) or at [polst@ohsu.edu](mailto:polst@ohsu.edu)

Scan QR Code to access  
 POLST completion and  
 submission information.

**SEND FORM WITH PATIENT WHENEVER TRANSFERRED OR DISCHARGED, SUBMIT COPY TO REGISTRY**

# CHAPTER 13

## FORM 7: DURABLE GENERAL POWER OF ATTORNEY

### FORM LETS POWER BE GIVEN OVER PROPERTY, MONEY, AND MORE

This form lets a person during life give power to someone very trusted to do things with the person's property, money, and more. Some people call this a "Financial Power Of Attorney".

### FORM GIVES POWER TO LET SOMEONE DO THINGS

This form lets a person give power to someone trusted like a spouse, adult child, or friend over their money, property, records, and other things. The person giving power is called "Principal" and person getting power called "Agent" (sometimes called an "Attorney-in-Fact"). This form can let someone help do things like pay bills, use accounts, buy or sell items, sign contracts, hire workers, take out debt, and get records. The form may help if person is sick or busy, and may avoid having to use more serious legal options like a guardianship involving a court. A person who isn't incapacitated can overrule or fire the Agent at any time.

### FORM IS DURABLE AND GIVES BROAD POWER USUALLY TO 1 PERSON

The form is called "durable" since it is written so it still has power if person who did the form is later incapacitated by illness or something, but power of the form ends at death. The form is called "general" since it is written to give broad power over almost any area, and this is done since most people trust the person they name and also banks and others may decline to obey the Agent if their power is not clear. Some people have a form name additional people to serve if the first named person is unavailable later for some reason, but this is rarely needed. If using a Power of Attorney form a signature of the Agent should be like, for example: "Ed Doe signing as Agent under a Power of Attorney for Ann Wu".

### DUE TO RISKS INCLUDING FRAUD MANY SKIP FORM OR CONSULT A LAWYER

Many people skip this form or first see a lawyer. Using this form is risky and can lead to harm since the Agent can buy unneeded or costly items, commit fraud or similar, or by carelessness allow other harms. Agents have a duty to act reasonably for Principal but may be out of money later so can't pay for any losses. Usually banks or others can't be blamed for obeying an Agent. The law is complex and basic acts may be fine like paying bills, getting records, or moving funds around, but some acts may be improper like making gifts, risky investments, or doing unusual things. It is best if a person not their Agent does anything unusual.

### PERSON SIGNS FORM IN FRONT OF A NOTARY

A person doing the form should sign in front of a person who is a notary who then notarizes and signs it. Once completed some cautious people quickly show the form to banks or similar places to explain they should obey the Agent later. Once it is completed most people give the form to their Agent to have to use. To cancel the form a person should take back copies and maybe tell places shown the form it's canceled.

# DURABLE GENERAL POWER OF ATTORNEY

I, \_\_\_\_\_, as principal making this power of attorney do hereby appoint \_\_\_\_\_ as my true and lawful attorney-in-fact and agent, (hereinafter referred to as “agent”) to act in my name and for my benefit. I grant to my agent full power and authority to do everything necessary in exercising any of the powers herein granted as fully as I might or could do if personally present and fully competent, hereby ratifying and confirming all that my agent shall lawfully do or cause to be done by virtue of this power of attorney and the powers herein granted.

This Power of Attorney takes effect immediately upon my execution of this document.

**A. GENERAL GRANT OF POWER.** My agent shall have power to exercise or perform any act, power, duty, right, or obligation whatsoever that I now have or may hereafter acquire, relating to any person, matter, transaction, or property, real or personal, tangible or intangible, now owned or hereafter acquired by me, including, without limitation, the powers specifically enumerated in this instrument. Generally, my agent shall have power to do and perform all matters, transact all business, and make, execute, and acknowledge all contracts, orders, deeds, mortgages, leases, assignments, assurances, and instruments of any kind which may be helpful or proper to effectuate the purposes of this power of attorney. This power of attorney shall apply to all property I own including subsequently acquired property, whether title is held as sole owner, as a joint tenant, as a tenant in common, as settlor or trustee of a revocable living trust, or otherwise.

**B. SPECIFIC POWERS.** Without in any way limiting the generality of the power and authority conferred upon my agent by this instrument, my agent shall have and may exercise each of the following specific powers:

**1. ACCOUNTS AND MONEYS:** My agent may open, continue, maintain, change, or close any account, including without limitation any checking or savings account, certificate of deposit, share account, retirement accounts including individual retirement accounts and 401k accounts or similar accounts, and other like arrangement with any bank, trust company, savings bank, building and loan association, savings and loan association, credit union, or other financial institution; make deposits and withdrawals by check, draft, or otherwise; and endorse checks, notes, and drafts for deposit, collection, or otherwise. My agent may also possess, transfer, transform, trade, and use money including all cash and coin of any type without limitation.

**2. SECURITIES:** My agent may buy, sell, pledge, exchange, assign, option, or otherwise transfer any securities of any kind; deal with any broker, banker, or other agent; receive all dividends and interest payments now or later due or payable to me from any security or other indebtedness or investment; vote stock and otherwise represent me at all meetings of shareholders or companies or corporations in which I have an interest;

sign proxies or other instruments; give my resignation as director or officer; subscribe to shares of stock, and execute request for payment of U.S. Savings Bonds, and surrender paid securities and get the proceeds.

**3. INSURANCE, ANNUITIES AND BENEFITS:** My agent may apply for and receive any government, insurance and retirement benefits to which I may be entitled, including serving as representative payee, with respect to rights and entitlements for my benefit and the benefit of my spouse and dependent children, if any, from the Social Security Administration, Medicare, Medicaid, and any branch of military service, the Veterans Administration, and any state Department of Veterans Affairs. My agent may represent and act for me before the Social Security Administration of the United States, and any similar agency of a state or local government; collect all Social Security benefits due me; and make such arrangements in connection with Social Security benefits including without limitation Medicaid and Medicare as will facilitate their application to my care and support. My agent may also exercise any right to elect benefits or payment options or to receive cash value in return for the surrender of any or all rights under any of the following: Life insurance policies or benefits; annuity policies, plans or benefits; mutual fund or other dividend investment plans; and retirement, profit sharing and employee plans and benefits. My agent may act on my behalf in dealing with my pension and retirement plans including the power to make IRA contributions, IRA rollovers, voluntary contributions, borrow from any retirement plan, elect or select payout options and waive non-employee spousal rights, to change ownership of my life insurance policies and annuities, to borrow cash value from or surrender such life insurance policies and annuities, to make and change beneficiary designations, and to consent and/or waive consent in connection with the designation of beneficiaries of my life insurance policies, annuities, IRAs and employee benefit plans. My agent may negotiate checks, change beneficiaries, assign, waive, or otherwise transfer rights to any pension to which I am entitled, whether private, federal (including the Office of Personnel Management, state (including Public Employees Retirement System) or other. My agent may also partition joint property, entireties property and community property to create separate property for me. The power granted under this paragraph shall include the power to dispose of any property or interest in property by any means (including establishing and funding trusts) and the power to name or change beneficiaries under insurance policies pay-on-death arrangements, retirement plans and accounts and any other assets provided that any disposition or designation shall be consistent with my existing estate plan to the extent reasonably possible. My agent may also convert jointly held real or personal property assets into sole ownership of the other joint tenant, and also to liquidate any jointly held assets and to direct the investment holder to make the check to liquidate such distribution to the benefit of only one of the joint owners. I authorize my agent to

protect assets so that spousal impoverishment because of health care costs can be avoided by whatever means might be available at the time of any health catastrophe. This power includes the power to convert jointly held assets to the sole name of my spouse in the event I incur catastrophic health care costs from which my spouse should be protected. My agent may make decisions, which my agent in its discretion may, determine necessary for disposing of or transferring my property in order to effect the best result possible for my entitlement to public services or benefits. My agent shall have the authority to grant, bargain, sell, convey and transfer real and personal property from my name to a trustee of a trust established for my benefit, and/or the benefit of my spouse, or to my agent's name so long as my agent is a beneficiary under my will or living trust. Further, if my agent is a beneficiary under my will or living trust I authorize my agent to make gifts to the agent, and to arrange for transfers of jointly held property of mine to the agent's name alone, and when my agent is acting in this way, I authorize my agent to "self-deal" in this manner with my full prior approval and without any prohibition against self-dealing.

**4. TRUSTS:** My agent may transfer some or all of my assets or my interests in assets to the trustee of or trustees of any revocable trust that I may have established or may establish in the future, regardless of the extent or limitations on my beneficial interests in that trust, to be administered in accordance with the terms thereof, and may manage the assets of said trust as if they were my solely owned assets.

**5. PROPERTY INCLUDING REAL ESTATE:** My agent may sell, exchange, option, and convey my real and personal property, wherever located; execute and deliver deeds of general warranty, with the customary covenants for such property; manage and control my real and personal property, wherever located; negotiate, execute, and deliver any leases of property; demand and collect rents; buy every kind of property, personal or real; arrange for appropriate transfer, use, insurance, and safekeeping of property; settle, compromise, and adjust insurance claims; borrow money in my name, and to receive such loans secured by real estate mortgage or by other collateral. My agent may sign, execute, deliver and acknowledge deeds, deeds of trust, covenants, indentures, agreements, mortgages, pledge agreements, notes, receipts, checks, bills of exchange, evidence of debts, releases and satisfactions of mortgage debts, judgment debts and other debts.

**6. OPERATION OF BUSINESS:** My agent may continue the operation of any business belonging to me or in which I have a substantial interest for such time and in such manner as my agent may deem advisable or to sell or liquidate any business or interest herein, at such time and on such terms as my agent may deem advisable and in my best interests.

**7. COLLECTION AND LITIGATION:** My agent may demand and collect all property, real or personal, now or hereafter due, payable, or belonging to me; contest, compromise, settle, or abandon claims in my favor or against me; give receipts, releases, and discharges; commence, pursue, or oppose any action, suit, or legal proceeding relating to any matter in which I am or may hereafter be interested; and compromise, settle, or submit to judgment any such action or proceeding.

**8. TAXES:** My agent may represent me before any office of the Internal Revenue Service or the Treasury Department of the United States and before the tax department of any state (including the Oregon Department of Revenue), county, municipality, or governmental agency with regard to any tax with which I am concerned. In particular without limitation, my agent may represent me in connection with any federal income tax return, Form 1040, for all tax years from 1950 to 2050; any federal gift tax returns, Form 709, for all tax years from 1950 to 2050; any Oregon income tax return, for all tax years from 1950 to 2050; and any Oregon gift tax return, for all tax years from 1950 to 2050. My agent may perform all acts that I can perform with respect to any tax matters without limitation. My agent may prepare, sign, and file any tax return; get originals of written communications and notices; negotiate and make compromises; file claims; receive, endorse, and collect checks; receive and examine confidential information; and take appeals, file protests, and execute waivers, make elections, and closing agreements. My agent may consent for me to have gifts made by me or my spouse considered as made by each of us under Internal Revenue Code section 2513.

**9. SAFE DEPOSIT BOX:** My agent shall have access to any safe deposit box of mine (whether if held in my name alone, in my revocable trust, or jointly with another or others) wherever located, and may remove the contents and surrender the box on my behalf. Any institution in which a safe deposit box of mine is located is not liable to me or my heirs or estate for permitting my agent to exercise this power.

**10. POST OFFICE:** My agent shall be able to request and authorize the post office to forward my mail to any address my agent deems advisable.

**11. EMPLOYMENT OF AGENTS:** My agent may employ and dismiss agents, attorneys, investment advisors, accountants, housekeepers, and other persons, and terminate any agency that I may create at any time.

**12. FIDUCIARY POSITIONS:** My agent may renounce any fiduciary positions to which I have been or may be appointed, including, but not limited to personal representative, trustee, guardian, conservator, attorney-in-fact and officer or director of a corporation; to resign such positions in which capacity I am presently serving, and to file an accounting with a court of competent jurisdiction, or settle on a receipt or release or other informal method as my agent deems advisable.

**13. GIFTING:** My agent may make gifts outright or in trust to third parties (including charities) as my agent, in the sole discretion of my agent, deem appropriate, in order to continue my gifting program to reduce my estate's estate tax liability so long as such gifts are in accordance with my estate plan as evidenced by my will or living trust.

**14. DISCLAIMER:** My agent may waive, release, disclaim or renounce property or an interest therein under the Oregon Disclaimer of Property Interests Act (ORS 105.623 to 105.649) or as amended, and by other laws anywhere like the Internal Revenue Code.

**15. POWER OF APPOINTMENT:** My agent may exercise any power of appointment given to me, whether by will or by trust agreement.

**16. ELECTIVE SHARE RIGHTS:** My agent may exercise any right to claim an elective share in any estate or under any will.

**17. MOTOR VEHICLES:** My agent may apply for a certificate of title upon, and to endorse and transfer title to any motor vehicle.

**18. CUSTODY OF DOCUMENTS:** My agent may take custody of any documents, including a will, trust, agreement, deed, life insurance policies and contracts.

**19. DOMICILE:** My agent may elect, declare, or change my domicile including for transfer of securities, federal and state tax elections, and long-term care planning.

**20. ACCESSING EMAIL AND OTHER ELECTRONIC DATA.** My agent is specifically authorized to access, modify, control, archive, transfer, and delete my digital assets. Digital assets include my sent and received emails, email accounts, digital music, digital photographs, digital videos, gaming accounts, software licenses, social-network accounts, file-sharing accounts, financial accounts, domain registrations, Domain Name System service accounts, blogs, listservs, web-hosting accounts, tax-preparation service accounts, online stores and auction sites, online accounts, and any similar digital asset that currently exists or may be developed as technology advances. My digital assets may be stored on the cloud or on my own digital devices. My agent may access, control, and use my digital devices in order to access, modify, control, archive, transfer, and delete my digital assets. This power is essential for access to my digital assets only accessible through my digital devices. Digital devices include desktops, laptops, tablets, peripherals, storage devices, mobile telephones, smartphones, and any similar hardware that currently exists or may be developed as technology advances.

**C. DURABILITY:** This Durable Power of Attorney shall not be affected by my subsequent disability, incapacity, or incompetency, and shall remain in effect until revoked by written instrument or terminated by my death.



My Commission Expires: \_\_\_\_\_



# **CHAPTER 14**

## **FORM 8: POWER OF ATTORNEY FOR MINOR CHILDREN**

### **FORM LETS PARENT GIVE POWER TO SOMEONE OVER CHILD UNDER 18**

This form lets a parent or guardian of children under 18 give over them to a person named in the form. This form is written to comply with Oregon law ORS 109.056 which lets people give power over a child.

### **FORM CAN GIVE POWER TO SOMEONE OVER CHILD UNDER 18**

In the form a parent or guardian called in the form the “Principal” can give power over their children under age 18 to a person they named who is called in the form the “Agent”. Often Agent is also called the “Attorney-in-Fact”. Most often named Agent to help with children is a relative, friend, teacher, or a coach. A parent who did the form can fire the person given power and usually can overrule a decision at any time. Using this form may avoid need for serious legal actions like a legal guardianship or a change of custody. The form can only be effective for 6 months except for people in the military it can last their full active duty plus 30 days. No power over adoption or marriage is given by this form.

### **INITIAL BOXES TO GIVE POWER AND FORM IS USED IN MANY SITUATIONS**

In the form are boxes to initial to say which powers are given. Most people give all or most powers since they trust the person getting power and other people may hesitate if it seems not enough power was given.

### **THE FORM IS USED IF MANY DIFFERENT SITUATIONS**

This form can be useful in many different situations. This form is sometimes used if parent or child is away from the other for work, school, drug treatment, sports, prison or jail, immigration, military, month long visit with family or friends, or if child is sick in hospital (and needs a person nearby to make quick decisions). This form is a sometimes used if a helpful person watches a child periodically, like several times a month. The form is usually not used for more average or brief situations like babysitter, daycare, week with relative, or any cases where a parent can reach a child fast.

### **FORM IS SIGNED BY PARENT OR GUARDIAN WITH A NOTARY**

The form to be valid is signed by a parent or guardian in front of a notary who then notarizes and signs it. Some people modify the form to add a 2nd parent to make it likelier people trust the form. Once done some cautious people quickly show the form to schools and doctors to tell them they should follow the form later. Usually people give the completed form to the person getting power to use if needed. To cancel the form a person should tell the person given power including maybe also in writing, and maybe tell all places shown the form it is canceled. The form’s last page has information which may be of help to some people.

# POWER OF ATTORNEY FOR MINOR CHILDREN

(Oregon Revised Statutes 109.056)

State of Oregon )

County of \_\_\_\_\_ )

I, \_\_\_\_\_, am the (natural mother) (natural father)  
(legal guardian) (*circle one*) of the following minor child/ren:

Name of child: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

Name of child: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

Name of child: \_\_\_\_\_ Date of Birth: \_\_\_\_\_.

Pursuant to Oregon law at ORS 109.056, I do hereby immediately temporarily appoint

Name of agent: \_\_\_\_\_

Address: \_\_\_\_\_

Phone numbers: \_\_\_\_\_

to act lawfully and with full authority for me and in my name and place in the following  
matters involving the child/ren named above (*Initial boxes*):

☐

1. To have the care, custody, and control of the child/ren and their property;

☐

2. To consent to any medical, dental, psychological, or psychiatric  
examinations, care, or treatment for the above child/ren.

☐

3. To enroll the above child/ren in school and to authorize participation in  
school activities;

☐

4. To apply for public benefits for the above child/ren;

☐

5. To act for me in any other matter regarding the health or welfare of the  
above child/ren except: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

*(Initial and choose 1 box below)*

☐

This Power of Attorney is valid six months from the date I have signed it, unless revoked earlier by me.

☐

This Power of Attorney is valid until \_\_\_\_\_, 20\_\_\_\_, unless revoked earlier by me.

☐

I am in the US Armed Forces and have been called to active duty and this power of attorney is effective through my active duty period plus 30 days unless revoked earlier by me.

Date: \_\_\_\_\_ Signature: \_\_\_\_\_

SUBSCRIBED AND SWORN TO BEFORE ME this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_  
by \_\_\_\_\_.

\_\_\_\_\_  
Notary Public for Oregon

My Commission expires: \_\_\_\_\_

## **Information**

### **Can I Give Another Person Temporary Parental Authority Over my Child?**

Yes. You can give a **power of attorney** to another person. Oregon law allows a parent or legal guardian of a minor child to temporarily give another person the authority to care for the child and make decisions about a child for a limited period of time. This is called delegating your rights and powers as a parent or legal guardian, and is called a power of attorney.

To give the other person authority to care for the child and make decisions, the parent or legal guardian needs to complete a power of attorney form. The power of attorney does not give the person caring for the child any permanent rights, such as the right to consent to marriage or the adoption of the child.

### **How Does a Parent or Legal Guardian Give the Rights to Another Person?**

You do not need to go to court to do this. You just need to fill out a power of attorney form, have it notarized and give it to the other person.

One form can be used for all of your children, if they are all going to be cared for by one person. If two different people are caring for your children, a second form will need to be used.

The power of attorney form needs to be filled out completely. Make sure you put your initials on the appropriate lines.

After filling out the form, but before you sign it, bring it to a notary public. You can find a notary public at some courts, libraries, banks, real estate offices, and law firms.

After the form has been notarized, **make a copy for yourself and keep it in a safe place.** Give the original to the person who will be caring for your children.

### **What rights should be given to the other person?**

It is up to you to decide what rights to give to the other person. Some of the rights that a parent or legal guardian can give to the other person include caring for the child, consenting to medical care for the child, and enrolling the child in school. A parent or legal guardian cannot give another person the temporary authority to consent to marriage or adoption of the child.

It is important that you trust the person who will be caring for your child. Be sure that the person understands that he or she must return the child when you want and that the power of attorney gives him or her no permanent rights to the child. However, it is important for you to realize that someone who has physical custody of your child for substantial periods of time may be able to petition the court for custody or visitation.

### **How Does the Power of Attorney End?**

A power of attorney can last no more than six months in most cases. After the six months are up, a new power of attorney form can be filled out.

A school can be given a power of attorney that lasts up to 12 months.

If you are in the U.S. Armed Forces Reserves and called to active duty, you can give a power of attorney that lasts for the time you are on active duty plus 30 days.

To stop the power of attorney before it is supposed to end you can verbally tell the person given power in the power of attorney, and it is also recommended you also tell them in writing (for example: "I immediately cancel any Power of Attorney I have done involving the following children:\_\_\_\_\_ Date:\_\_\_\_\_ Signed: \_\_\_\_\_")

**YOU CAN REVOKE THE POWER OF ATTORNEY AT ANY TIME**

# CHAPTER 15

## FORM 9: APPOINTMENT OF PERSON TO MAKE DECISIONS CONCERNING DISPOSITION OF REMAINS

### LETS PERSON NAME SOMEONE TO LATER CONTROL THEIR DEAD BODY

This form lets a person name someone to later control their dead body (their “remains”) and other things. The Oregon Mortuary And Cemetery Board group has a version of this form online that some people use.

### CAN NAME PERSON TO CONTROL DEAD BODY

The form lets someone be named to control a person’s dead body and related issues like funeral, burial, cremation, ceremonies, and buying goods and services for this. If this form is not done then by state law control is usually by closest family (starting with spouse, then children, then parents, and then siblings). People do this form rarely and usually only if family may be too upset while mourning, be bad with money, or do unwanted things. Payment for things comes from pre-paid funeral accounts, insurance, and a dead person’s or estate’s money and property, and Executor and family legally must help arrange payment.

### PEOPLE USUALLY SHOULD DO WHAT DECEDENT WANTED

Legally people including family should do the funeral, burial, and related things a dead person wanted if their properly, money, and estate can clearly afford it. Under Oregon law if a person before their death pre-arranged funeral, burial, or related matters involving their body these almost always should be followed. Note, about half of people skip doing much until months later and after burial or cremation is fully done, and this lets people have time to calm down and gives people time to arrange time off work and to travel. Importantly, if a family quickly asks a funeral home or crematorium for “Direct Burial” or “Direct Cremation” this does the burial and cremation without any of family watching but it can reduce costs by up to 80%. In Oregon cremation is more affordable than burial and about half of people are now picking cremation.

### SIGN FORM WITH 2 WITNESSES

To complete the form it is signed by a person in front of a 2 witnesses who then also sign. The people used as witnesses should not be anyone named to get power in the form. Once done the form should be given to someone to hold or put in a place it can be found very quickly within 1 or 2 days of a death.

# APPOINTMENT OF PERSON TO MAKE DECISIONS CONCERNING DISPOSITION OF REMAINS

(Oregon Revised Statutes 97.130)

I, \_\_\_\_\_, appoint \_\_\_\_\_, whose  
address is \_\_\_\_\_  
and whose telephone number is (\_\_\_\_) \_\_\_\_\_, as the person to make all decisions  
regarding the disposition of my remains upon my death for my burial or cremation. In the  
event this person I appointed is unable to act, I appoint \_\_\_\_\_,  
whose address is \_\_\_\_\_ and  
whose telephone number is (\_\_\_\_) \_\_\_\_\_, as my alternate person to make all  
decisions regarding disposition of my remains upon my death for my burial or cremation.

It is my intent that this Appointment of Person to Make Decisions Concerning  
Disposition of Remains act as and be accepted as the written authorization presently  
required by ORS 97.130 (or its corresponding future provisions) or any other provision of  
Oregon Law, authorizing me to name a person to have authority to dispose of my remains.

DATED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
(Signature)

## DECLARATION OF WITNESSES

We declare that \_\_\_\_\_ is personally  
known to us, that he/she signed this Appointment of Person to Make Decisions  
Concerning Disposition of Remains in our presence, that he/she appeared to be of sound  
mind and not acting under duress, fraud or undue influence, and that neither of us is the  
person so appointed by this document.

Witnessed By: \_\_\_\_\_

Date: \_\_\_\_\_

Witnessed By: \_\_\_\_\_

Date: \_\_\_\_\_

# **APPENDIX: SAMPLE FILLED OUT FORMS**

TO GET FORMS TO USE PEOPLE CAN:

- (1) PHOTOCOPY BOOK PAGES,
- (2) TEAR OUT PAGES FROM A BOOK, OR
- (3) DOWNLOAD BOOK WITH FORMS FROM WWW.DAVENPORTPUBLISHING.COM  
AND USUALLY PDF FORM AT IS BEST TO AVOID SPACING/FORMAT CHANGES.

EMAIL ANY COMMENTS TO DAVENPORTPRESS@GMAIL.COM.

On the next pages to show how it can be done are some sample filled out legal forms.

People can add words to legal forms by computer or typewriter to be neater, but many people just by hand use pen, marker, or pencil to handwrite words into forms.

It is not required but is bit better if signatures are in ink or marker not pencil.

Many parts of the forms especially Will gifts can be left empty and unfilled.

Anyone can fill in words in legal form not just the person doing the form, like a friend with neat writing can fill in all the words, addresses, and dates that are needed.  
Only the final signatures must be done by each person who wants the form.

To add words in form by pen, pencil, typewriter, or computer any of these is fine:

"I appoint John Doe as Agent" ,  
"I appoint John Doe as Agent",  
"I appoint John Doe as Agent".

When doing forms it may help to know "respectively" means "in order just stated".

People need not worry about neatness or small mistakes, and a document is usually fine if those people who knew a decedent in life can tell the likely meaning.

**Sample Filled Out Form: Last Will and Testament (Standard)**  
**with Gifts section skipped to not bother making small gifts (which many people may want to do especially if they have a spouse or young children)**

## LAST WILL AND TESTAMENT

I, Paul Thomas Maxwell, of Portland, Oregon, do revoke all prior Wills, Testaments, and Codicils, and do make, publish, and declare this as my Will.

I am of sound mind and under no duress or undue influence and acting voluntarily.

**1. GIFTS.** I give these gifts in this Will, but to get a gift in this section the recipient must survive me except as otherwise stated below.

I give \_\_\_\_\_ to \_\_\_\_\_.

I give \_\_\_\_\_ to \_\_\_\_\_.

I give \_\_\_\_\_ to \_\_\_\_\_.

I give \_\_\_\_\_ to \_\_\_\_\_.

I give \_\_\_\_\_ to \_\_\_\_\_.

I give \_\_\_\_\_ to \_\_\_\_\_.

I give \_\_\_\_\_ to \_\_\_\_\_.

I give \_\_\_\_\_ to \_\_\_\_\_.

I give \_\_\_\_\_ to \_\_\_\_\_.

I give \_\_\_\_\_ to \_\_\_\_\_.

**2. SEPARATE WRITINGS.** I may do writings separate from this Will to gift tangible personal property as allowed by state law including Oregon Revised Statutes 112.260, and such writings should be followed. This Will does not revoke any such writings that exist. A gift in such a writing to a person who does not survive me is canceled and has no effect. Any such writing not found within 90 days of my death is canceled and has no effect.

**3. RESIDUE.** I give the rest and residue and remainder of my estate, my money and property of any kind and nature, and anything I have an interest in so long as it was not transferred by other Will provisions (all of which is called the “residue”), as follows:

a) to Susan Lee Maxwell who survive me with persons just named who survive me taking the share of non-survivors, then

b) to Oscar David Maxwell and Jennifer Judy Tabor and if any of those just named do not survive me their part goes to their lineal descendants, per stirpes.



**4. ADMINISTRATION.** I name and appoint Susan Lee Maxwell as Personal Representative including for me, my Will, and my estate, to serve without bond.

**5. MISCELLANEOUS.** The following applies to this Will and generally.

My main residence is in Oregon and Oregon law should apply to this Will.

Priority of Will gifts of the same type is based on the order they are written.

In this document no unfilled part is a mistake and residue spaces may be left blank.

The words “give” and “gift” also means a devise, bequest, grant, legacy, or similar.

A gift of property no longer owned by Testator at death shall lapse and be of no effect including no payment of money shall be done in its place, all without ademption.

If a gift or section in this Will reasonably mentions survival in any way then survival is an absolute condition and anti-lapse laws or similar have no effect.

Unless a Will gift specifies otherwise if a Will gift goes to multiple recipients if any do not survive Testator their part to them lapses and instead goes to other surviving recipients.

Any failure to make more or any Will gifts to current children or current spouse at the time I do this Will is intentional and not a mistake to remedy.

No gift or transfer I made during my life to a person reduces or offsets a Will gift, unless during my life I expressly usually called it a loan or advancement.

Unless another meaning is shown by context use of plural includes the singular and vice versa, and also masculine, feminine, and neuter words are used interchangeably. Unless another meaning is shown “they” means both one person and multiple persons.

Unless a Will specifically says otherwise a) a secured debt including a mortgage or lien shall not be paid off including by a Personal Representative or in probate, b) a recipient of a Will gift of property takes it subject to any debts, c) no recipient of a Will gift who later loses property gifted to them to a debtor or who pays to avoid foreclosure or other loss may require the estate or anyone to pay recipient back, do exoneration, or do or pay anything.

I request and authorize any informal, summary, and quick probate or similar action. Any Personal Representative may act independently with no supervision of any court, including independent administration, and without doing any action or filings in court.

I give any Personal Representative a) the fullest authority, powers, and discretion allowed by state law, b) authority to lease, sell, mortgage, convey, or retain property including real property in any such manner and time they deem helpful or proper, and c) authority to settle or pay claims or debts at any time they in their sole discretion choose. Any Personal Representative shall also have all powers found in Oregon law existing on the date of this Will including ORS 114.305 and any other powers hereafter given by law.

A Personal Representative shall have sole discretion how to balance people’s feelings and pick property or divide a gift to carry out a general gift or a gift to multiple persons.

If context permits the terms Personal Representative, Executor, and Administrator

are interchangeable as if all were written, and Guardian of the Estate is interchangeable with Conservator. The terms Residue and Residuary are also interchangeable.

I request any lawyers be paid hourly or a fixed sum and not by any percentage.

The residue includes lapsed or failed gifts, insurance paid to the estate, any inheritances owed, and property I have or had a power of appointment or testamentary disposition over.

Any Personal Representative, Executor, Administrator, Guardian of any type, Conservator, Custodian, and any fiduciary under this Will or otherwise shall qualify and serve without bond, security, surety, or any similar thing.

If part of this Will is by law invalid or unenforceable other provisions remain in effect.

A Personal Representative may at any time transfer money or property of any minor under age 18, or any other thing or money, to a Custodian to serve under the Oregon Uniform Transfers to Minors Act or similar laws anywhere. A Personal Representative may select the Custodian including themselves but if they do not I name for this the person named Guardian in this Will.

### **TESTATOR**

IN WITNESS WHEREOF, I, the Testator, publish, declare, and sign this instrument as my Will which I make voluntarily this 22nd day of June, 20 22.

*Paul Thomas Maxwell*  
Testator signature

### **WITNESSES**

The foregoing instrument was signed by the Testator in our presence and declared by the Testator to be the Testator's Will, who, to the best of our knowledge, was at that time of sound and disposing mind and memory and not acting under the fraud, duress, or undue influence of any person whomsoever, and we, the undersigned witnesses, sign our names hereunto as witnesses at the request and in the presence of the Testator, and in the presence of each other on the 22nd day of June, 20 22.

*Eve Mable Rogers*  
Witness

14 2nd St., Portland, OR 98124  
Witness Address

*Mary Ann Moon*  
Witness

835 Buffalo Road, Boise, ID 83701  
Witness Address

**Sample Filled Out Form: Last Will and Testament (Standard)**  
**with Residue Clause using percentages and Guardians part used**

## LAST WILL AND TESTAMENT

I, Paul Brian Kent, of Clackamas County, Oregon, do revoke all prior Wills, Testaments, and Codicils, and do make, publish, and declare this as my Will.

I am of sound mind and under no duress or undue influence and acting voluntarily.

**1. GIFTS.** I give these gifts in this Will, but to get a gift in this section the recipient must survive me except as otherwise stated below.

I give big oak table to Anne J. Smith .

I give \$5,000 to Loretta Marsha Switt .

I give 63 Ivy Road, Eugene, Oregon to Kenneth Victor Poppler.

I give all real property and fixtures I own in Clackamas County, Oregon to Amy Marie Fox .

I give 903 Iceberg Road, Anchorage, Alaska to James Eric Hanson .

I give Bronze Roman Lamp to Anne Kilby and Kevin Kilby.

I give wedding ring to Ruth Jones.

I give all jewelry not given above to Kay Pidoski.

I give \$781.35 to Wanda Kay Zinski .

I give Wells Fargo acct ending in #8923 to Lawrence Deer a hunting buddy .

I give 1998 Ford truck to John Rupert Smith .

I give \$200 to Kent Food Shelf on Smith Road in Portland, Oregon .

I give all spare tires and auto parts I own to Victor Perez my mechanic .

I give \$1000 each to each of my grandchildren .

**2. SEPARATE WRITINGS.** I may do writings separate from this Will to gift tangible personal property as allowed by state law including Oregon Revised Statutes 112.260, and such writings should be followed. This Will does not revoke any such writings that exist. A gift in such a writing to a person who does not survive me is canceled and has no effect. Any such writing not found within 90 days of my death is canceled and has no effect.

**3. RESIDUE.** I give the rest and residue and remainder of my estate, my property of any kind and nature, and anything I have an interest in (all of which is called the “residue”), so long as any such thing was not transferred by other Will provisions, as follows:

a) to Ruth May Kent my wife who survive me with persons just named who survive me taking the share of non-survivors, then

b) to 45% to Oscar Elliot Kent my son and 45% to Karen Lisa Lundy my daughter and 10% to Pedro Juan Sanchez and if any of those just named do not survive me their part goes to their lineal descendants, per stirpes.

**4. ADMINISTRATION.** I name and appoint Ruth May Kent as Personal Representative including for me, my Will, and my estate, to serve without bond.

**5. GUARDIAN.** I name and appoint Karen Lisa Fox my sister as Guardian of any minor child including if needed to have control, authority, and custody of them, and I also name and appoint this same person as Conservator for any minor child and the minor child’s property, money, and estate. They shall serve without bond.

**6. MISCELLANEOUS.** The following applies to this Will and generally.

My main residence is in Oregon and Oregon law should apply to this Will.

Priority of Will gifts of the same type is based on the order they are written.

In this document no unfilled part is a mistake and residue spaces may be left blank.

The words “give” and “gift” also means a devise, bequest, grant, legacy, or similar.

A gift of property no longer owned by Testator at death shall lapse and be of no effect including no payment of money shall be done in its place, all without ademption.

If a gift or section in this Will reasonably mentions survival in any way then survival is an absolute condition and anti-lapse laws or similar have no effect.

Unless a Will gift specifies otherwise if a Will gift goes to multiple recipients if any do not survive Testator their part to them lapses and instead goes to other surviving recipients.

Any failure to make more or any Will gifts to current children or current spouse at the time I do this Will is intentional and not a mistake to remedy.

No gift or transfer I made during my life to a person reduces or offsets a Will gift, unless during my life I expressly usually called it a loan or advancement.

Unless another meaning is shown by context use of plural includes the singular and vice versa, and also masculine, feminine, and neuter words are used interchangeably.

Unless another meaning is shown “they” means both one person and multiple persons.

Unless a Will specifically says otherwise a) a secured debt including a mortgage or lien shall not be paid off including by a Personal Representative or in probate, b) a recipient of a Will gift of property takes it subject to any debts, c) no recipient of a Will gift who later

loses property gifted to them to a debtor or who pays to avoid foreclosure or other loss may require the estate or anyone to pay recipient back, do exoneration, or do or pay anything.

I request and authorize any informal, summary, and quick probate or similar action. Any Personal Representative may act independently with no supervision of any court, including independent administration, and without doing any action or filings in court.

A Personal Representative shall have sole discretion how to balance people's feelings and pick property or divide a gift to carry out a general gift or a gift to multiple persons.

I request any lawyers be paid hourly or a fixed sum and not by any percentage.

The residue includes lapsed or failed gifts, insurance paid to the estate, any inheritances owed, and property I have or had a power of appointment or testamentary disposition over.

Any Personal Representative, Executor, Administrator, Guardian of any type, Conservator, Custodian, and any fiduciary under this Will or otherwise shall qualify and serve without bond, security, surety, or any similar thing.

If part of this Will is by law invalid or unenforceable other provisions remain in effect.

A Personal Representative may at any time transfer money or property of any minor under age 18, or any other thing or money, to a Custodian to serve under the Oregon Uniform Transfers to Minors Act or similar laws anywhere. A Personal Representative may select the Custodian including themselves but if they do not I name for this the person named Guardian in this Will.

### **TESTATOR**

IN WITNESS WHEREOF, I, the Testator, publish, declare, and sign this instrument as my Will which I make voluntarily this 30th day of December, 20 19.

*Paul Brian Kent*

Testator signature

### **WITNESSES**

The foregoing instrument was signed by the Testator in our presence and declared by the Testator to be the Testator's Will, who, to the best of our knowledge, was at that time of sound and disposing mind and memory and not acting under the fraud, duress, or undue influence of any person whomsoever, and we, the undersigned witnesses, sign our names hereunto as witnesses at the request and in the presence of the Testator, and in the presence of each other on the 30th day of December, 20 19.

*Olivia Joy Pawlenty*

Witness

87 Forest Road, Cascade, OR 97045

Address

*Roy Felix Pawlenty*

Witness

87 Forest Road, Cascade, OR 97045

Address

**Sample Filled Out Form: Last Will and Testament (Standard)**  
**with Gifts section mostly skipped and Will modified to have 1 Part Residue Clause**

## **LAST WILL AND TESTAMENT**

I, **David Eric Smith**, of **Multnomah County**, Oregon, do revoke all prior Wills, Testaments, and Codicils, and do make, publish, and declare this as my Will.

I am of sound mind and under no duress or undue influence and acting voluntarily.

**1. GIFTS.** I give these gifts in this Will, but to get a gift in this section the recipient must survive me except as otherwise stated below.

I give \$500 to each of my brothers, sisters, and cousins.

I give \$1000 to Baker Food Shelf on Fern Road in Salem, Oregon.

**2. SEPARATE WRITINGS.** I may do writings separate from this Will to gift tangible personal property as allowed by state law including Oregon Revised Statutes 112.260, and such writings should be followed. This Will does not revoke any such writings that exist. A gift in such a writing to a person who does not survive me is canceled and has no effect. Any such writing not found within 90 days of my death is canceled and has no effect.

**3. RESIDUE.** The rest and residue and remainder of my estate, my property of any kind and nature, and anything I have an interest in, I give to **Adam Michael Smith and Ann Sue Baker who survive me** and to lineal descendants per stirpes of a person just named who did not survive me.

**4. ADMINISTRATION.** I name and appoint **Ann Sue Baker** as Personal Representative including for me, my Will, and my estate, who shall serve without bond.

**5. MISCELLANEOUS.** The following applies to this Will and generally.

My main residence is in Oregon and Oregon law should apply to this Will.

Priority of Will gifts of the same type is based on the order they are written.

In this document no unfilled part is a mistake and residue spaces may be left blank.

The words “give” and “gift” also means a devise, bequest, grant, legacy, or similar.

A gift of property no longer owned by Testator at death shall lapse and be of no effect including no payment of money shall be done in its place, all without ademption.

If a gift or section in this Will reasonably mentions survival in any way then survival is an absolute condition and anti-lapse laws or similar have no effect.

Unless a Will gift specifies otherwise if a Will gift goes to multiple recipients if any do not survive Testator their part to them lapses and instead goes to other surviving recipients.

Any failure to make more or any Will gifts to current children or current spouse at the time I do this Will is intentional and not a mistake to remedy.

No gift or transfer I made during my life to a person reduces or offsets a Will gift, unless during my life I expressly usually called it a loan or advancement.

Unless another meaning is shown by context use of plural includes the singular and vice versa, and also masculine, feminine, and neuter words are used interchangeably.

Unless another meaning is shown “they” means both one person and multiple persons.

Unless a Will specifically says otherwise a) a secured debt including a mortgage or lien shall not be paid off including by a Personal Representative or in probate, b) a recipient of a Will gift of property takes it subject to any debts, c) no recipient of a Will gift who later loses property gifted to them to a debtor or who pays to avoid foreclosure or other loss may require the estate or anyone to pay recipient back, do exoneration, or do or pay anything.

I request and authorize any informal, summary, and quick probate or similar action. Any Personal Representative may act independently with no supervision of any court, including independent administration, and without doing any action or filings in court.

I give any Personal Representative a) the fullest authority, powers, and discretion allowed by state law, b) authority to lease, sell, mortgage, convey, or retain property including real property in any such manner and time they deem helpful or proper, and c) authority to settle or pay claims or debts at any time they in their sole discretion choose. Any Personal Representative shall also have all powers found in Oregon law.

A Personal Representative shall have sole discretion how to balance people’s feelings and pick property or divide a gift to carry out a general gift or a gift to multiple persons.

If context permits the terms Personal Representative, Executor, and Administrator are interchangeable as if all were written, and Guardian of the Estate is interchangeable with Conservator. The terms Residue and Residuary are also interchangeable.

The residue includes lapsed or failed gifts, insurance paid to the estate, any inheritances owed, and property I have or had a power of appointment or testamentary disposition over.

Any Personal Representative, Executor, Administrator, Guardian of any type, Conservator, Custodian, and any fiduciary under this Will or otherwise shall qualify and serve without bond, security, surety, or any similar thing.

If part of this Will is by law invalid or unenforceable other provisions remain in effect.

A Personal Representative may at any time transfer money or property of any minor under age 18, or any other thing or money, to a Custodian to serve under the Oregon Uniform Transfers to Minors Act or similar laws anywhere. A Personal Representative may select the Custodian including themselves but if they do not I name for this the person named Guardian in this Will.

**TESTATOR**

IN WITNESS WHEREOF, I, the Testator, publish, declare, and sign this instrument as my Will which I make voluntarily this **21st** day of **June**, 2021

*David Eric Smith*

Testator signature

**WITNESSES**

The foregoing instrument was signed by the Testator in our presence and declared by the Testator to be the Testator's Will, who, to the best of our knowledge, was at that time of sound and disposing mind and memory and not acting under the fraud, duress, or undue influence of any person whomsoever, and we, the undersigned witnesses, sign our names hereunto as witnesses at the request and in the presence of the Testator, and in the presence of each other on the **21st** day of **June**, 2021.

*Harriet Potter*

Witness signature

204 Main Street, Portland, OR 97086

Witness address

*Pamela Bonnie Rucker*

Witness signature

27 Dog River Road, Gresham, OR 97823

Witness address



# SELF-PROVING AFFIDAVIT

69

## Sample Filled Out Form: Tangible Personal Property List

### TANGIBLE PERSONAL PROPERTY LIST

In this writing are gifts of tangible personal property to occur after my death, but this writing if not found by someone within 90 days of my death is canceled.

I may do multiple pages of these writings which should be seen as 1 document with the more recent writing controlling if any gifts conflict.

If a person getting a gift below does not survive me such gift is void and canceled.

PROPERTY ITEMS		NAMES OF RECIPIENTS
1998 Ford Truck	to	Samantha Bell
1.3 carat diamond ring + Irish rings	to	Ann Sue Reed
14 ft power boat + kayak + paddles	to	L. Wheeler
Amish style bench	to	Reba Stewart
glass table, telescope, umbrellas	to	Rebecca Stewart
Irish wood cups, oak platter, red vase	to	Mary and Cindy Lott
painting of sailboat in storm	to	Mary Lott
chainsaw marked with 382937	to	Mary Lott
chainsaw marked with 89930	to	Matt Smith
antique lanterns + repair kits	to	Sue Wu waitress at cafe
oak lamp with big scratch	to	Mary Kay Poppler
sewing machines	to	Mary Kay Poppler
rocking chair bought in Montana	to	Don Winkler boat mechanic
all fishing poles and fishing nets	to	Joe "Fish" Hoss, fishing pal
hats at cabin	to	Ken Baker
	to	
	to	
	to	

DATE: 2-12-2023

SIGNED: David Eric Smith