

DAVENPORT'S MINNESOTA WILLS AND ESTATE PLANNING LEGAL FORMS



**DAVENPORT'S
MINNESOTA WILLS
AND
ESTATE PLANNING
LEGAL FORMS
-- 2024 EDITION --**

**written by attorneys
Alex Russell and Robert Maxwell**

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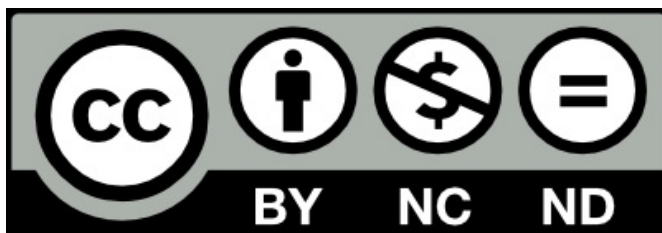
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CHAPTER 1

BOOK BASICS AND LIST OF FORMS

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

This book helps people in Minnesota do legal documents to help control their health care, property, money, children, funeral, and more if later they are absent, sick, or dead. Doing documents to control things like this is called “Estate Planning”. People mostly have a complete right to control these matters so usually judges, doctors, and other people 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. This book has 9 ready to use Minnesota legal forms (but almost all people use just a few of these 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 their money and property, who is Executor handling things, and let some easier legal options be used later to reduce costs and delays.

Form 2. Will (Guardians) – Will with parts added to name someone as Guardian to care for a minor child under 18 if needed (like if no parent is later available), and also name someone as Conservator to if needed manage money and property of a child and spend this on them till the child reaches age 18.

Form 3. Self-Proving Affidavit – done with Will to later help prove Will was properly signed.

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

HEALTH CARE FORMS

Form 5. Health Care Directive – lets a person name someone as Health Care Agent to control health care if they’re incapacitated, write health care instructions, and if wanted do serious step of saying stop health care if later their health is bad and unlikely to improve (this part is often called a “Living Will”).

Form 6. Providers Orders For Life-Sustaining Treatment – does serious act of saying immediately from now on don’t try health care listed in the form like C.P.R. (attempts to restart heart or breathing), and this short form is often used outside hospitals or similar places but it also can be used inside places too.

GIVING POWER FORMS

Form 7. Statutory Short Form Power Of Attorney – lets power over money, property, and more be shared during life with a trusted person so they have legal power to help do things, like handle paying bills.

Form 8. Power Of Attorney Over Child – lets parent of child under 18 give power to someone over the child’s health care, school, personal care, and other things to let them make decisions if needed.

Form 9. Final Wishes – lets instructions be given and if wanted a person named to control disposition of the body after death and related issues (usually done if a person doesn’t want closest family to do this).

BOOK ALSO HAS “HELPFUL INFORMATION” FORM TO HELP PEOPLE

Many lawyers, banks, and financial planners give a “helpful information” form to let a person tell family and friends things about property, money, debts, tips, and last wishes. This book’s Chapter 2 has such a form.

MINNESOTA LAW ON ESTATE PLANNING COVERS MOST PEOPLE HERE

This book is only for Minnesota since Estate Planning law and legal documents do vary between states. Usually a state’s Estate Planning law applies if a person’s primary residence is here (often called “domicile”). Many judges say “residence” occurs if a person lives in a place and has no clear plans to leave. Later plans to move don’t matter till people move. People can stay under a previous state’s Estate Planning laws after they move if people always plan to leave the new state. For example, people who move to a new state for months or more for travel, school, work, or military often keep legal ties to their old state. People also often do health care forms for the state a health facility is in. Most immigrants of any kind can do Estate Planning here.

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 a lot of money and energy on. Benefits seem very low for young people since only 4% of people die by age 50, and only about 0.13% of children before age 18 have both parents die. See *Social Security Tables: Felicitie Bell; Parent Mortality Census SIPP Paper #288*. Many people spend more time and money on getting some good life insurance.

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 Minnesota law is different. This book can’t cover all legal issues but should suit most people without any strange situations or wishes. Strange situations or wishes that may need research or a lawyer include: a) strange gift wishes for property or money, b) wealth over \$4 million, c) big medical concerns like extreme age, d) wish to give property or money to a person with a disability of some kind, and e) wish to hide or move resources to qualify for government help.

LEGAL FORMS CAN HELP MANY AND THIS BOOK HAS “STANDARD FORMS”

Legal forms are good at most things involved in Estate Planning and can make binding legal documents. Instead of legal forms a lawyer can be used for Estate Planning but this can be costly, take months of work, and they can make mistakes. In life people often pick a cheaper option. Importantly often a hospital, charity, state agency, or state legislature has made a form most people use and call the “standard form”, and doctors, judges, and other people may not like to follow anything else. This book does provide mostly standard forms.

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

When filling out a legal form except for signatures other parts can be filled in by someone not doing the

form with good typing or handwriting (pencil is allowed). Once done often people try to keep the original and hand out copies. Some people have everyone sign multiple copies to have many copies with ink signatures.

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

To be legally valid and enforceable some legal documents need to be “witnessed”, which is someone watching the person doing the form sign and then the witness signs too. Some documents need to be “notarized” which means a person who is a “notary” sees it signed and then uses an ink stamp and signs too. Notaries (also called a “notary public”) are at some banks, brokers, insurance agents, courts, law offices, libraries, and mailing-copying centers. Using a phonebook to find a notary willing to help is recommended. The words “subscribe” and “execute” means a person signed a document, and “acknowledgment” means a person said a signature was theirs. If a person signs a legal document in a foreign language it is usually still binding. When filling in a document it may help to know “respectively” means “in the order just stated”.

SOME LESS COMMON OR LESS USEFUL FORMS ARE NOT IN THIS BOOK

This book skips some possible but less common or less useful documents.

- A “Codicil” can modify a Will but it is easier and legally safer to just rewrite the whole Will.
- 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.
- Some people do a “Revocable Living Trust” so a Trust entity with a Trustee holds property or money during their life, usually done to after death have faster transfer of things and avoid small delays, costs, or work of others (by “avoiding probate”). But this is rarely done as it may require moving most of a person’s things to a Trust causing maybe years of hassle, mostly to avoid later small work for people happy to be getting things.
- “Childrens Trust” papers can be done (like as part of a Will) so at a death a Trust gets money or property for a minor child to manage until 18, but this is uncommon due to possible cost and hassle, since it rarely matters (as this book explains), and since most Wills already arrange other legal help for young children.
- Though separate forms exist usually organ donation is handled in drivers license or state ID paperwork.

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, and 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 if people move but this is not always certain.

NO FEDERAL, MINNESOTA, OR OTHER TAX IS USUALLY OWED DUE TO DEATH

Usually no or little tax is owed as a result of a death, including estate, inheritance, death, or similar taxes. The Federal Estate And Gift Tax is the only Federal tax that may be owed due to a death, but it only starts when a tax credit is used up covering \$13.99 million a person after 2024 (this rises yearly for inflation). Minnesota has an estate tax on property and money over \$3,000,000 overall a person dies with, and tax rates around 15% apply. Things going to a spouse are exempt from this. Few non-rich people owe this tax. Lastly, a person’s family or Executor may have to file normal income tax returns to cover the partial year a decedent lived and earned income in before they died. Life insurance payouts are usually tax free.

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 about people doing legal documents to control things if later absent, sick, or dead. After a document is done people are mostly 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.
- 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 valid Will is done a person is “intestate” and then a dead person’s property and money is transferred to a spouse, children, and family as intestate law says. Some people a fine with this. This is covered later.
- A person who died is called the “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. The term “descendants” or “issue” usually means a person’s children and grandchildren.
- A person named in a Will to handle things after someone’s death is called an “Executor”, but if a judge has to pick someone they are called an “Administrator”. The new term “Personal Representative” covers both these things and this new term is now commonly used in most Wills in Minnesota.
- A person doing a Will is called “Testator” or “Will maker”. Before about 1995 a woman Testator was called a “Testatrix” and woman Executor called an “Executrix” but this is no longer often said or written.
- “Probate” is a legal process to do things after someone’s death like transfer property, handle creditors, and authorize a Guardian. Due to nice changes in law probate is now often informal, faster, and less costly.
- “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).
- A person under 18 is usually called a “minor” and often a parent or guardian helps them do things. A minor or other person not reasonably able to make wise decisions lacks “capacity” and is “incapacitated”.
- A document giving power to someone is often called a “Power of Attorney” where the “Principal” gives power to someone called the “Agent” or “Attorney-in-Fact” (but they needn’t be a real attorney or lawyer).
- State law is the Minnesota Statutes which is made up of statutes or sections. A reference to a law can look like, for example, “Minn. Stat. § 524.1-101”, with “§” meaning statute. A form found in state law to use if wanted is called a “statutory form”. After death a Will is filed in the Probate Division of the local District Court.

“ESTATE” MEANS PROPERTY OF DECEDENT AND ENTITY HOLDING THINGS

The “estate” or “probate estate” means all property and money of a dead person that at death or soon after didn’t automatically legally go to new owners. Estate is also the name for a temporary entity run by an Executor to do things after a death (it’s like a small corporation, e.g., “Estate of John Alan Smith”).

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 do 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 they 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 ownership ways which may limit gifting by Will. Laws vary in different states but some common special ways of ownership 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 often how spouses hold their home;
- papers say a “life estate” exists, so then if life of someone ends the other people in papers get item; and
- “Trust property” occurs if paperwork made a Trust entity and then property was transferred into it or this is set to occur, so then the Trust papers control where things put in the Trust go after someone’s death.

Plain “joint ownership” with many people owning a thing can occur if people do joint papers, all agree to it, buy with joint funds, or if a gift was to many. Wills can gift joint property, like “I give my half of boat to Ed Lu”.

NON-PROBATE TRANSFERS THAT HAPPEN AUTOMATICALLY IGNORE A WILL

It is vital to be aware some money or property of a decedent may automatically transfers on death or soon after to new owners if certain arrangements were made earlier. This is called “non-probate property”. Such things transfer as arranged even if a Will names the same items.

Examples are: a) a “designated beneficiary” form was done to name people to get an account or investment, b) transfer-on-death accounts were used, and c) real property is held by 2 people as “joint tenants with survivorship” or similar so at a death the surviving person gets things. Usually property in a Trust will ignore a Will and transfers as papers say to. Life insurance usually goes to the named beneficiary.

Trying to do non-probate transfers for all things is called “avoiding probate”, but few people try this since it can cause years of hassle, benefits are small, and often some thing is missed. When doing a Will people should consider non-probate transfers that will occur automatically on death and consider what will be left.

“HELPFUL INFORMATION” FORM CAN TELL FAMILY AND FRIENDS THINGS

People can do an unofficial “Helpful Information” form banks, lawyers, and planners suggest so family or friends after a death will know things. People can staple records or lists to this. See form on next pages.

ESTATE PLANNING HELPFUL INFORMATION

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

1. Personal Information (Name, Birthdate, Social Security number, 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, car loans, 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 code/key:

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

CHAPTER 3

WILL BASICS

WILL LETS A PERSON CONTROL THINGS AFTER THEIR DEATH

A Will is a legal document done by a person to control some things after their death. A person doing a Will is called the “Testator” or “Will maker”. In Minnesota 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).

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

A signed Will should be kept so it is found within days of a death, like in a desk, drawer, safe, with a person, or less often a safe deposit box. It may help to tell people how to get a Will. Wills also can be filed in the Probate Division of a local District Court during a person’s life just for safekeeping but very few people do this.

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. Or people can revoke an old Will by writing “void” or “cancelled” or “X” on it, preferably with a witness to this. Usually crossing out just part of a Will has no effect. Revoking a Will usually doesn’t bring back an earlier Will.

A WILL USUALLY MUST BE SIGNED WITH 2 WITNESSES

WILL MUST SHOW IT’S A WILL AND BE SIGNED WITH 2 WITNESSES

Under Minnesota law a document to be a Will usually must show it’s a Will by its words, and the person doing it must sign a Will in front of at least 2 persons acting as witnesses who sign too. A Will just spoken on a video or audio recording usually has no legal effect. Minnesota does not let witnesses be skipped just because a Will is handwritten. This book does not cover electronic signing of Wills since it is rarely used.

WITNESSES SHOULD AT LEAST AGE 18 AND OFTEN NOT GETTING WILL GIFTS

A person to witness a Will must be at least age 18. It is better but not required a witness not be very old, not live far away, and not be named in a Will to be Executor, Guardian, or similar. In Minnesota unlike many states a Will is still valid if a witness is named to get gifts in a Will. But many people and lawyers to avoid the appearance of misconduct pick witnesses who are “disinterested” which means they or their spouse are not named to get things in a Will. Often used as witnesses are friends, co-workers, neighbors, or strangers.

TESTATOR AND 2 WITNESSES SIGN THE WILL WHEN TOGETHER IN 1 ROOM

A person doing a Will should sign it with at least 2 witnesses who also sign while all are in 1 room and see others sign. People showing others an I.D. is not required but is common. A Testator need not initial the Will pages. A Testator or witness should use their full legal name unless they greatly dislike and rarely use it. Witnesses only read the 1 paragraph they sign. Most Wills have people print their names and addresses. Legally a Testator need not say anything but often they say a thing like, “My name is _____ and this Will I do voluntarily and want 2 people to witness”. A person telling others it is their Will is called “publishing a Will”. Some Testators chat a few minutes about the Will with witnesses to help show they are of sound mind.

MOST WILLS SAY TO SKIP COSTLY BOND FOR EXECUTOR AND OTHERS

Most Wills helpfully say no “bond” or “surety” is required for any Executor, Guardian, or similar person. A bond is insurance from a company to insure against misconduct. A Testator usually doesn’t want a bond since the persons Testator names are trusted and them later needing a bond will cost the estate money.

MOST WILLS SAY FAMILY MAY LATER DO “INFORMAL PROBATE”

Most Wills helpfully say after a death the family and friends may do “informal probate” which can avoid costs and delays. Informal probate often is done with just 1 court hearing and usually in well under 1 year.

MOST WILLS HAVE A “MISCELLANEOUS” PART WITH HELPFUL LANGUAGE

Most Wills have a “Miscellaneous” page with paragraphs of legal language which can help if later legal problems occur. A person doing a Will need not understand these paragraphs.

A WILL NAMES AN EXECUTOR TO DO THINGS AFTER DEATH

WILL NAMES SOMEONE AS “EXECUTOR” TO DO THINGS AFTER A DEATH

Most Wills name someone as “Executor” to after a death do things like collect and give decedent’s money and property to new owners, handle decedent’s debts, and do probate. The law gives an Executor legal powers to do many things. If a Will fails to name an Executor a judge picks someone, but family may fight over who to suggest. Will gifts can go to an Executor. Importantly, the term “Personal Representative” and not Executor is now mostly used in Wills in Minnesota for the person doing this work, but these terms mostly mean the same thing. The same 1 person can be named to be Executor, Guardian, and other positions.

EXECUTOR CAN BE PAID AND ESTATE PAYS FOR EXECUTOR’S EXPENSES

Minnesota law says normally the Executor can ask can be paid a fair wage for the time they spend working on an estate. Pay for an Executor may helpfully let money get to this person even if a decedent left little of value and large creditors are asking to be paid. But some Testators don’t want such pay and add a Will line about this. In reality most Executors skip asking for pay so as to not owe income tax and leave more money to carry out Will gifts. Expenses an Executor has like lawyer, insurance, mortgage payments, repairs, utilities, funeral, and probate costs and fees are paid for with money or property of the estate. Any lawyer an Executor hires usually is paid hourly or a fixed sum that the lawyer and Executor agree on.

EXECUTOR IS PERSON AT LEAST 18 AND SECOND PERSON RARELY NEEDED

A person to be Executor must be age 18 or older and usually not have a bad criminal record like a felony. A person to be Executor need not reside in the state but being local can make their later work much easier. Naming 2 people to both be Executor is allowed but rare due to the risk of arguments and delays, and since any 1 person named should be trusted. People can name a 2nd person to be Executor if the 1st person is not later available but most skip this since this rarely occurs and if needed a judge can pick someone. To add such a 2nd person a person could add: “or if they’re reasonably unable to serve I name ____ to serve”.

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 mainly to say what happens to their property and money after their death, usually by writing down various Will gifts to occur when they die. Verbal and even writings about this are not usually valid if not in a written Will. A Will can control property acquired after it was signed. The very end of this Chapter covers “intestate law” which says where a person’s things go at death if no valid Will handles this.

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

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

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 items can change, or a Will gift may later fail to occur if property is not owned at death.

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 Hu”. Money gifts are easy to write, let equal gifts be made, and are legally safer for many reasons. To carry out money gifts an Executor usually uses accounts or sells some property in the estate.

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

The same property or money in a “joint gift” can go to many people to each get a part. For example, “I give boat and all hats to Ann Baxter and Mary Ann Swanson” means each person owns part of every item. People later can split things by agreement or an Executor can decide how to divide items. If a person in a joint gift has died their part usually is left to transfer under a Residue Clause.

GIFTS IN WILL CAN GO TO A GROUP OR CLASS OF PEOPLE

To save work a Will gift can go to a group or class of people like certain family if who is meant is later easy to determine. People can say roughly how much in total is gifted to be clearer. Examples are: “I give \$10 to each person on my 2018 soccer team” and “I give \$10 to each of my grandkids so this is about \$100 in total.”

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 used to make unequal gifts, like “I give boat 90% to John Smith and 10% to Mary Baker”.

RESIDUE CLAUSE IS CATCH-ALL THAT HELPFULLY GIFTS ANYTHING LEFT

Often by end of a Will a Residue Clause gifts property or money not already gifted or handled an other way. Often all left goes to a person's spouse or their child or their "lineal descendants per stirpes" which means their children and grandchildren with an equal share going to each branch of the family (this book covers this later).

CAN LEAVE SOME WILL GIFT LINES BLANK OR WRITE THING 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.

PERSON NAMED IN WILL GIFT DYING IS RARE AND MOSTLY NOT A WORRY

GIFT RECIPIENTS DYING BEFORE TESTATOR IS RARE AND USUALLY IGNORED

Having a person named to get a gift die before a Testator is rare. If it occurs most people do nothing and let a Residue Clause handle it. Some people if they notice re-do a Will to replace a dead person in the Will.

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 a Will gift must survive (live past) the Testator for the gift to occur unless Will gift language specifically says different. Some Wills are different. People should consider how Will gifts to people who later die before the Testator usually will have no effect.

PEOPLE CAN ADD AN ALTERNATE BENEFICIARY LIKE FOR SPECIAL ITEMS

Some people for the small risk a recipient in a Will gift dies before Testator, and maybe for special items, add a bit to put an "alternate beneficiary", like "I give boat to Ed Fox but if they don't survive me to Ann Fox".

WILL CAN SAY GIFT INSTEAD GOES TO "LINEAL DESCENDANTS PER STIRPES"

A Will gift can say it goes to a person but if they don't survive (live past the Testator) then the gift goes to their "lineal descendants per stirpes". Descendants are a person's children and grandchildren. Often a Residue Clause uses "lineal descendants" wording. Also, the term "per stirpes" is often used which basically means give to each family branch equally. An example shows how "lineal descendants" wording works:

A Will may say: "All 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, Ken Wu himself gets 50% and Ben Wu's 2 children each get 25%.

HELPFUL LAWS OFTEN REQUIRE PERSON SURVIVE 120 HOURS FOR WILL GIFT

Laws in most states say a person dying within 120 hours of someone is seen as having died earlier, so often a Will gift to them is ignored. This book's Wills also say this. This avoids legal problems like need to know exact time of death and, also, having an item go through many probate legal cases over years.

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. This avoids need to describe things and has less legal risk. After applying a Residue Clause if anything is somehow left then by law a decedent’s closest heirs-at-law get things (this is their closest family).

USUAL RESIDUE CLAUSE HAS 2 PARTS

A short 2 part Residue Clause is usual and is used in this book’s Will forms, 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 the 1st space don’t survive (many people name next close family or friends in this space), and if a person in 2nd space has died their descendants get their share.

EXAMPLE OF 2 PART RESIDUE CLAUSE:

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

- a) to John Paul Doe my husband **who survive me with persons just named who survive me taking the share of non-survivors, then if anything remains**
- b) to Sam Doe, Beth Wu, and Greta Fisher **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 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 his (so get 1/6 each) and the other 2 persons in the second part Beth Wu and Greta Fisher get 1/3 each.

A FEW PEOPLE REWRITE RESIDUE CLAUSE TO HAVE 1 PART

A normal Residue Clause of 2 parts is often fine for most people. But a few people modify a Will to have a 1 Part Residue Clause since it tends to gift to a group more equally and be simpler to understand. People with no spouse and no young children sometimes do this. See Example below for exact words to use.

EXAMPLE OF 1 PART RESIDUE CLAUSE:

“RESIDUE CLAUSE: The rest, residue, and remainder of my estate, and anything else I have an interest in, I give to Adam Doe and Beth Wu who survive me, and if any of those just named do not survive me their part goes to their lineal descendants per stirpes.”

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 A WILL

PUTTING NAMES OF PEOPLE OR GROUPS IN A WILL IS FAIRLY EASY

Putting names in Wills is fairly easy. A judge or Executor assume a person in a Will meant people they know, so common names are OK unless 2 friends or family have the same name. Details can help if names won't be recognized or to be friendly, like "I give \$5 to my nurse Sue Ax" and "I give \$5 to loyal pal Ron Lee". If people used a nickname "also known as" or "a/k/a" may help, like "I give \$5 to Dan Smith a/k/a Old Fishy". Gifts can go to a charity, government, or group, like "I give \$10 to The Salvation Army, "I give \$8 to St. Paul Public Library, MN", and "I give \$5 to Wix Church, Rex, TX". People often phone to get a charity's name.

PUTTING DESCRIPTIONS OF ITEMS IN WILL GIFTS IS FAIRLY EASY

Describing items in Will gifts is easy since people rarely own similar items that would be confused. Often fine are gifts like: "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 Lee" and "I give cow, van, and harp to Sue Hill". Financial assets can use plain words, like "bank accounts" or "stocks", but details can help, like: "US Bank savings account ending #1511". Gifting using a location is riskier as judges will ignore Will gifts if it seems items were placed to affect gifting and no "independently significant" life reason. So, "I give Ed Wu items in safe and desk" judges might not follow, but "I give Ed Wu hats in attic" likely is OK.

GIFTING REAL PROPERTY IS EASIER USING A RESIDUE CLAUSE OR TITLE

The easier and legally safer way to gift real property (real estate) at death is: 1) do nothing specific so it's handled by a Will Residue Clause, or 2) have a lawyer or broker put names in a deed or a similar document so legally the named persons will get the real property at someone else's death. These are the best ways.

Gifting real property at death other ways is hard but possible. Helpfully a Will gift of real property described by location legally does gift all land, buildings, and fixtures located there with no need to say what's there.

It is possible to gift real property at a particular address with very plain words, like a house, fixtures, and land can be given by something like: "I give 81 Maxwell Street, Edina Minnesota to Mary Ann Brown".

People can do a blanket gift giving all of a kind of property, like, "I give all real property and fixtures in Anoka County, Minnesota to Ann Ivy Hill " or "I give all furniture and all bank accounts to Eric Paul Carlson".

Giving real property in a Will using a "legal description" is how many lawyers do it, but this can be hard to do. If using a legal description people must write without mistakes the full legal description of maybe many lines into a Will with no abbreviation at all. A legal description might be found on a deed or on mortgage papers. Legal descriptions may refer to a "lot" or "blocks" on a map which is recorded in land records of a county, or it may refer to a path around the land borders with various angles, distances, and iron stakes.

CAN LEAVE SOME WILL GIFT LINES BLANK OR WRITE THING 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.

LATER DIVORCE OR MURDER CANCELS WILL GIFTS

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

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 attorney’s fees. Due to all this conditions are rarely put on Will gifts.

FAMILIES OFTEN LET PEOPLE TAKE SMALLER ITEMS UNOFFICIALLY

Many families unofficially let people take items in ways a dead person said, showed with stickers, or put on notes, and this is often fine. If people object a judge may have the law be fully followed, but later people can voluntarily retransfer items. Later this book covers gifts done with a Tangible Personal Property List.

INTESTATE LAW CONTROLS THINGS NOT COVERED BY A WILL

“INTESTATE LAW” CONTROLS THINGS NOT HANDLED BY A WILL OR SIMILAR

State “intestate law” which starts at Minn. Stat. § 524.2-101 says if a person dies with no valid Will or if anything is left after Will and transfers are done then certain surviving (living) family get decedent’s money and property. Many people like intestate law and choose to skip a Will, but a Will may have other benefits like cutting later costs. “Descendants” means a person’s children and grandchildren, and if a person died who would get an intestate share often their descendants legally get that share. Intestate law says, in order:

- 1) if a decedent (a dead person) left descendants but no surviving spouse, the closest descendants get all;
- 2) if decedent left a spouse and no descendants or all descendants are descendants of the surviving spouse and there is no other descendants of the spouse who survives, then the spouse gets all;
- 3) if decedent left a surviving spouse and either the decedent or the spouse has any descendant who is not related to the other, then the spouse gets the first \$225,000 in value and 1/2 of the rest, and the remainder goes to decedent’s descendants;
- 4) If decedent left no spouse or descendant but left any surviving parent, then any surviving parents gets all;
- 5) If decedent left no spouse or descendants or parents, then decedent’s closest surviving other family get things starting with a decedent’s brothers and sisters, then cousins, and then other close family; and
- 6) if none of the above persons survive then decedent’s things go to the state of Minnesota.

CHAPTER 5

DEBT, HOMESTEAD, MARRIAGE, AND CHILD ISSUES

THIS CHAPTER COVERS CERTAIN ISSUES THAT SOME PEOPLE CAN SKIP

This Chapter covers debt, homestead, marriage, and child issues, and some people can skip parts.

DEBT ISSUES

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

If a decedent had debts then creditors owed may ask a judge to be paid from decedent's money or property before Will gifts and certain transfers occur. How debts are paid is set by state law and a Will need not describe this. Funds to pay debts comes from decedent's money and property so may affect (in order) the Will Residue, Will general gifts, Will specific gifts, and non-probate transfers. Probate costs, health care, and funeral debts by law have some priority to be paid first. For certain reasons often not all debts are paid. People should consider how paying debts may use up money or property, leaving less to carry out Will gifts. A spouse and family usually aren't liable for decedent's debts unless they actually guaranteed or co-signed.

"FAMILY RIGHTS" MAY BE USED TO GET FAMILY THINGS BEFORE DEBTS

Most states have "Family Rights" a decedent's surviving spouse or young children can claim, and this helpfully may let them get things even before most debts of decedent are paid and even before Will gifts.

First, in the U.S. usually a surviving spouse or if there's no spouse then children can use an "Exempt Property" right to get some of a decedent's clothing, furniture, tools, and other personal property for family to use to live. In Minnesota this is set at \$15,000 of a decedent's things plus 1 vehicle. Minn. Stat. § 524.2-403. Family may also be able to keep more by claiming a decedent gave things to them or hiding items from the Executor.

Second, in the U.S. usually a surviving spouse or also young children under 18 can use a "Family Allowance" right to get some of a decedent's money and property to live on for 1 year or so. In Minnesota an allowance of up to \$2,300 a month can be sought and often a lump sum is given. Minn. Stat. § 524.2-404.

Clearly if a spouse or children use these rights this leaves less of decedent's things to do Will gifts or other transfers so may interfere with these. So family don't bother to use Family Rights often a person gives mostly to a spouse or young children (like over 50% and any family house). Some people may want to do research.

SECURED DEBTS LIKE MORTGAGE OR VEHICLE LIEN ARE NOT PAID OFF

Laws in most states say do not pay off secured debts on property of a decedent like a house mortgage or vehicle lien even if other debts are paid by Executor or in probate. This avoids using up estate resources on paying these usually big debts and leaves more estate resources to carry out Will gifts and other transfers. Due to this, all this book's Will forms say do not usually pay off any secured debts. But if a Testator wants they can 1) put in a Will an order to pay (like, "Executor pay off the house mortgage"), or 2) gift enough money to pay off a secured debt to the person getting the property. Most banks let new owners keep paying monthly a secured debt like a mortgage or lien on property that people got upon someone's death.

HOMESTEAD ISSUES

A DECEDENT'S SPOUSE OR CHILDREN MAY HAVE RIGHTS TO A HOUSE

Many states give a decedent's spouse or children some right to get (or stay in for life) a house (or mobile home) owned by a decedent under what is called a "Homestead Law". Minnesota law says if there is a surviving spouse the family home goes to the spouse if a decedent left no descendants, or if decedent left descendants the spouse gets use of the house for life after which descendants get it. Minn. Stat. § 524.2-402. This law can ignore what a Will says. One major goal of all this is to avoid surprise to a surviving spouse. But very importantly any effect of the Homestead Law is avoided if the surviving spouse joined in (signed) the transfer or instrument that gives the home to someone else, or if the home was held in a way that made clear who would get it (such as a joint tenancy).

MARRIAGE ISSUES

MINNESOTA USES "SEPARATE PROPERTY LAW" FOR SPOUSES

Minnesota like most states uses the "Separate Property Law" system that says a married person mostly owns their money and property separately and not jointly with a spouse. Due to this a married person is usually free to sell during life or gift by Will most of their money or property and not have to involve a spouse. But joint ownership by 2 spouses and not separate ownership can arise in other ways, like by agreement, both spouses paying part of the purchase price, if a gift was to both spouses, or if paperwork calls it joint.

"COMMUNITY PROPERTY" LAW APPLIES IN OTHER STATES FOR SPOUSES

There are 9 states that use "Community Property" law for spouses (Arizona, California, Louisiana, Idaho, Nevada, New Mexico, Texas, Washington, and Wisconsin). This says property or money is owned 50/50 by spouses as Community Property if it's from mental or physical work while married (like wages or salary) or if items are bought or improved with Community Property. People moving from these states may face issues.

"JOINT WILL" OR SIMILAR BOTH SPOUSES SIGN IS NOT RECOMMENDED

Some couples sign 1 "Joint Will" or "Contract To Make A Will" done by a lawyer which says spouses give all to the other if they die first, then says last living spouse gives to all their children equally, and usually says a spouse may not change this. This is illegal in most states and often seen as restrictive and is rarely used.

SPOUSE CAN CLAIM "ELECTIVE SHARE" INSTEAD OF THEM FOLLOWING WILL

A spouse if unhappy with what a Will and other transfers may give them has a right to instead choose (elect) an "Elective Share" of a dead spouse's property and money rather than take what a Will gives them. See Minn. Stat. § 524.2-402. To avoid this option both spouses have to sign a pre-nuptial or a post-nuptial agreement by lawyers which can be costly to arrange. In Minnesota the Elective Share is 3% for each year of marriage till reaching 50% after 15 years (and if the estate is small a spouse often gets the first \$75,000). To help a surviving spouse by law the Elective Share can even cover things decedent gave away recently or things they controlled but didn't actually own. Clearly if a spouse uses the Elective Share to get up to 50% of decedent's things this may take so much property and money that it may interfere with other transfers. To avoid a spouse wanting to use the Elective Share most people give by Will and other ways over 1/2 their things to any spouse of theirs (including any family house).

CHILD ISSUES

WILL CAN NAME “GUARDIAN OF THE PERSON” TO CARE FOR YOUNG CHILD

If a parent dies with a child under age 18 then any other natural or adopted parent (but not a step-parent) almost always automatically gets control of the child’s care (including health care, school, and home issues). This won’t occur only if the other parent will be unavailable a long time or is proven unfit in court which is rare. But just in case it is later needed (like later both parents die) a Will often names a healthy willing relative or friend as “Guardian of the Person” to give this care for a young child.

WILL CAN NAME “CONSERVATOR” FOR CHILD’S PROPERTY FOR FINANCES

Since a child till age 18 can’t legally control property and money a Will often names a person to have the job of managing a young child’s property and money. Most Minnesota people and legal documents call this a “Conservator”, though other states often call this a “Guardian of the Estate” or “Guardian of Property”. This person decides each year how to use up property and money on a child’s costs (like school, living, and health care) till often age 18 when all left goes to a child. A judge often holds a yearly hearing on spending. A person paying stuff for a child can ask to be paid back from a child’s resources. As a nice 2nd option most Wills say an Executor may name a person as "Custodian" (including themselves) to manage a child’s money and property under the “Uniform Transfers To Minors Act” law and this may avoid a lot of work and costs.

MOST WILLS NAME 1 PERSON TO CARE FOR CHILD AND THEIR PROPERTY

This book’s Will forms and most parents name the same 1 person to be Guardian of the Person caring for a child and Conservator caring for a child’s property and money. People can change a Will to name different people for the 2 positions, but this is rarely worth it since parents dying is rare, rarely do children get much, a person smart enough to handle a child usually can handle money, and naming different people can lead to arguments and lawsuits between people. Will gifts can go to people named as Guardian or Conservator.

PERSON TO BE A GUARDIAN MUST BE AT LEAST 18 AND NOT A BAD CRIMINAL

A person to be a Guardian or Conservator must be 18 or older. They must not have a bad criminal record like a felony unless a judge later says they can serve anyway. They need not live in the state but being local can make work easier. The choice for Guardian and Conservator of the last living parent is usually followed. If no Will names a person for a position or they’re unavailable a judge can pick someone, but family may argue about who to suggest. Naming 2 people for 1 position to act at the same time is rare since 2 persons may argue and any 1 person picked should be smart enough to act alone. It is somewhat common for 2 people who are a married couple to be named for a position, but there can still be problems if they disagree on what to do or if they divorce. Some Wills add a 2nd person to serve if the 1st person is unavailable, like: “or if they are later reasonably unable to serve I name _____ to serve”). But most people skip naming a fallback person since it’s rarely needed, if a problem is seen a Will can be redone, and a judge always can pick someone.

NAMING GUARDIANS RARELY MATTERS

A child under age 18 having parents die is rare so parents shouldn’t worry that much about Guardians for children. A good U.S. study found of people under age 18 just 2.78% had lost 1 parent and just 0.13% had lost 2 parents (so 99.87% will not lose both parents by age 18). *Parent Mortality Census SIPP Paper #288.*

CHAPTER 6

BASIC IDEAS ABOUT CONTROLLING HEALTH CARE

BASIC IDEAS HELP PEOPLE UNDERSTAND CONTROLLING HEALTH CARE

Some ideas help people understand health care forms.

■ By law people control their own health care by telling doctors and others what they want unless they're "incapacitated" by insufficient ability to a) communicate verbally or by notes, b) be rational, or c) be conscious. In actuality most people keep control of health care till death or till no big treatment options remain, but people may worry they may be incapacitated a long time so they want to do health care forms.

■ 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 legal document gives them full power over health care.

■ In forms a person can be named to have control of health care if needed who is often called "Agent". Forms about control of health care if people are later incapacitated are often called "Advanced Directives".

■ In forms people can give written health care instructions doctors, family, Agent, and others must obey.

■ Parents do have power over health care of their child under age 18.

■ Some **young married people** give a spouse power over health care in case they are ever 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 people only do a single long health care form that has a spot to give someone power over health care and a spot for instructions (this is often called a "Health Care Power of Attorney" though names vary).

■ For the rare times stopping health care ("pulling the plug") likely matters due to extreme illness or old age:

-- most people do nothing special and trust family or Agent for health care to decide on stopping care based on many 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, has an irrevocable terminal condition or likely won't regain good consciousness, and more medical care won't help (this document to stop care is often called a "Living Will" though names vary);

-- a few people do a serious document to starting immediately block certain health care (and this often is called a "Do-Not-Resuscitate" if about resuscitation or called a "Physician's Order" if about many treatments).

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 a person control many different 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. The term “Last Will and Testament” is often used since a “Testament” document use to be done with a Will.

THIS FORM IS A WILL WITH SEVERAL PARTS

The form starts with lines for a person to put their name (a full legal name is best but not required) and place of main residence (most put a county but some put a city). The Will is still valid if people later move.

Paragraph 1, “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.

Paragraph 2, “Separate Writings”, says to follow any separate writings done apart from the Will that gifts tangible personal property in manner allowed by state law.

Paragraph 3, “Residue”, has a Residue Clause to say property and money left after other Will parts and other transfers is to be distributed in the way a person wrote in the blank parts of this paragraph.

Paragraph 4, “Administration”, names a person to be Personal Representative to do things after a person’s death (in the past the similar term “Executor” was usually used for the person doing this).

Paragraph 5, “Miscellaneous”, has paragraphs of legal language to help avoid certain legal issues.

Last is paragraphs for the Testator to date, sign, and print their name, and for the 2 witnesses to sign, date, and print their name and addresses.

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

In a Will “Residue Clause” anything left over after other Will parts is transferred as the clause directs. Many people use a Residue Clause to gift most their 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 died before the Will maker then other persons named here in this 1st space take the dead person’s share, and
 - 2) a 2nd space to name people to get things if all people named in the 1st space have died, and if any people named in the 2nd space have died their shares go to “lineal descendants” like their children.
- People often put in the 1st space a spouse or closest family or friends, and in 2nd space next closest people.

TESTATOR AND 2 WITNESSES WHILE TOGETHER SIGN WILL

This Will after being filled out (except bits intentionally left blank) must be signed by the person doing the Will (the “Testator”) in front of at least 2 persons acting as witnesses at least age 18 who then also sign.

LAST WILL AND TESTAMENT

I am _____ of _____, Minnesota, and I revoke all prior Wills and testamentary documents 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, and all such writings should be followed. But any such writing not found within 90 days of my death is canceled and has no effect. A gift in such a writing to a person who does not survive me is canceled and has no effect. This Will does not revoke any such writings that now exist.

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 if anything remains

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, nominate, and appoint _____ as Personal Representative including for me, my Will, and my estate.

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

In this Will no part left unfilled is a mistake including spaces in the residue clause.

The facts support and I want Minnesota state law to apply to this Will and my estate.

I order that my just debts, funeral and related expenses, and taxes be paid as soon after my death as practical but only those items my Personal Representative chooses to pay.

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

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

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

A gift of property no longer owned by me at death shall lapse and be of no effect including no payment of money shall be done in its place.

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

I am intentionally not providing by Will or other ways for some family, including I am not providing for some children of mine and also children of a deceased child of mine.

No earlier transfer reduces a Will gift unless I usually called it a loan or advancement.

Unless another meaning is shown use of plural includes the singular and vice versa, “they” can mean 1 person, and masculine, feminine, and neuter words are interchangeable.

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 debts, and c) no recipient of property who later loses it or who pays to keep it may require others or the estate to pay or do exoneration.

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 with no inventory, appraisal, or other action.

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

Any Personal Representative has sole discretion how to divide a gift to several persons, how to carry out a general gift, and how to do a gift to multiple persons.

Any Guardian of any type, Conservator, Custodian, or other person managing a minor’s property or money may use or invade the principal and sell property without court action.

If context permits the terms Personal Representative and Executor and Administrator are interchangeable, Guardian of Property and Conservator and Guardian of the Estate and Custodian are interchangeable, and residue and residuary are interchangeable. Any such person may stand in place and act and have all powers like the others.

The residue includes lapsed or failed gifts, insurance paid to the estate, digital assets, inheritances owed me, and all I had power of appointment or testamentary disposition over.

Any Personal Representative, Executor, Administrator, Conservator, Guardian of any

type, Custodian, and any other fiduciary under this Will or otherwise shall qualify and serve without bond, surety, security, surety bond, or similar.

If evidence does not show it likely a person survived me by 120 hours (5 days) then for this Will and my estate they shall be deemed in all ways as having died before me.

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

Any Personal Representative may at any time transfer money or property of a minor under age 18 to a Custodian to serve under the Minnesota Uniform Transfers to Minors Act or any similar law, and may pick the person to be Custodian including themselves.

TESTATOR

I, _____, the Testator, sign my name to this instrument this _____ day of _____, 20____, and being first duly sworn, do hereby declare to all persons present and any undersigned authority, that I sign and execute this instrument as my Will and that I sign it willingly, that I execute it as my free and voluntary act for the purposes therein expressed, and that I am 18 years of age or older, of sound mind, and under no constraint or undue influence.

Signature of Testator

WITNESSES

We, _____ and _____, the Witnesses, sign our names to this instrument, being first duly sworn, and do hereby declare to all persons present and any undersigned authority, that the Testator signs and executes this instrument as the Testator's Will and that the Testator signs it willingly, and that each of us, in the presence and hearing of the Testator, hereby signs this Will acting as witness to the Testator's signing, and that to the best of our knowledge the Testator is 18 years of age or older, of sound mind, and under no constraint or undue influence.

Signature of Witness

Address of Witness

Signature of Witness

Address of Witness

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 added to be used by a person with a minor child under age 18. The term “Last Will and Testament” is often used since a “Testament” document use to be done with a Will.

FORM IS A WILL WITH SEVERAL PARTS INCLUDING A GUARDIAN PART

The form starts with lines for a person to put their name (a full legal name is best but not required) and place of main residence (most put a county but some put a city). The Will is still valid if people later move.

Paragraph 1, “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.

Paragraph 2, “Separate Writings”, says to follow any separate writings done apart from the Will that gifts tangible personal property in manner allowed by state law.

Paragraph 3, “Residue”, has a Residue Clause to say property and money left after other Will parts and other transfers is to be distributed in the way a person wrote in the blank parts of this paragraph.

Paragraph 4, “Administration”, names a person to be Personal Representative to do things after a person’s death (in the past the similar term “Executor” was usually used for the person doing this).

Paragraph 5, “Guardian”, names a person to if needed be Guardian to care for any minor child under age 18, and also if needed manage a minor child’s property and money.

Paragraph 6, “Miscellaneous”, has paragraphs of legal language to help avoid certain legal issues.

Last is paragraphs for the Testator to date, sign, and print their name, and for the 2 witnesses to sign, date, and print their name and addresses.

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

In a Will “Residue Clause” anything left over after other Will parts is transferred as the clause directs. Many people use a Residue Clause to gift most their 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 died before the Will maker then other persons named here in this 1st space take the dead person’s share, and
 - 2) a 2nd space to name people to get things if all people named in the 1st space have died, and if any people named in the 2nd space have died their shares go to “lineal descendants” like their children.
- People often put in the 1st space a spouse or closest family or friends, and in 2nd space next closest people.

TESTATOR AND 2 WITNESSES WHILE TOGETHER SIGN WILL

This Will after being filled out (except bits intentionally left blank) must be signed by the person doing the Will (the “Testator”) in front of at least 2 persons acting as witnesses at least age 18 who then also sign.

LAST WILL AND TESTAMENT

I am _____ of _____, Minnesota, and I revoke all prior Wills and testamentary documents 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 _____.

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

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 if anything remains

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, nominate, and appoint _____ as Personal Representative including for me, my Will, and my estate.

5. GUARDIAN. I nominate, appoint, and name _____ to be if needed Guardian of any minor child under age 18 of mine and to have care, authority, custody, and other control of them (including as Guardian of the Person). I nominate, appoint, and name this same person Conservator and to have control, care, and power over the property, money, and estate of any minor child (including as Guardian of the Estate).

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

In this Will no part left unfilled is a mistake including spaces in the residue clause.

The facts support and I want Minnesota state law to apply to this Will and my estate.

I order that my just debts, funeral and related expenses, and taxes be paid as soon after my death as practical but only those items my Personal Representative chooses to pay.

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

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

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

A gift of property no longer owned by me at death shall lapse and be of no effect including no payment of money shall be done in its place.

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

I am intentionally not providing by Will or other ways for some family, including I am not providing for some children of mine and also children of a deceased child of mine.

No earlier transfer reduces a Will gift unless I usually called it a loan or advancement.

Unless another meaning is shown use of plural includes the singular and vice versa, “they” can mean 1 person, and masculine, feminine, and neuter words are interchangeable.

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 debts, and c) no recipient of property who later loses it or who pays to keep it may require others or the estate to pay or do exoneration.

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 with no inventory, appraisal, or other action.

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

Any Personal Representative has sole discretion how to divide a gift to several persons, how to carry out a general gift, and how to do a gift to multiple persons.

Any Guardian of any type, Conservator, Custodian, or other person managing a minor’s property or money may use or invade the principal and sell property without court action.

If context permits the terms Personal Representative and Executor and Administrator are interchangeable, Guardian of Property and Conservator and Guardian of the Estate and Custodian are interchangeable, and residue and residuary are interchangeable. Any such person may stand in place and act and have all powers like the others.

The residue includes lapsed or failed gifts, insurance paid to the estate, digital assets, inheritances owed me, and all I had power of appointment or testamentary disposition over.

Any Personal Representative, Executor, Administrator, Conservator, Guardian of any type, Custodian, and any other fiduciary under this Will or otherwise shall qualify and

serve without bond, surety, security, surety bond, or similar.

If evidence does not show it likely a person survived me by 120 hours (5 days) then for this Will and my estate they shall be deemed in all ways as having died before me.

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

Any Personal Representative may at any time transfer money or property of a minor under age 18 to a Custodian to serve under the Minnesota Uniform Transfers to Minors Act or any similar law, and may pick the person to be Custodian including themselves.

TESTATOR

I, _____, the Testator, sign my name to this instrument this _____ day of _____, 20____, and being first duly sworn, do hereby declare to all persons present and any undersigned authority, that I sign and execute this instrument as my Will and that I sign it willingly, that I execute it as my free and voluntary act for the purposes therein expressed, and that I am 18 years of age or older, of sound mind, and under no constraint or undue influence.

Signature of Testator

WITNESSES

We, _____ and _____, the Witnesses, sign our names to this instrument, being first duly sworn, and do hereby declare to all persons present and any undersigned authority, that the Testator signs and executes this instrument as the Testator's Will and that the Testator signs it willingly, and that each of us, in the presence and hearing of the Testator, hereby signs this Will acting as witness to the Testator's signing, and that to the best of our knowledge the Testator is 18 years of age or older, of sound mind, and under no constraint or undue influence.

Signature of Witness

Address of Witness

Signature of Witness

Address of Witness

CHAPTER 9

FORM 3: SELF-PROVING AFFIDAVIT

FORM CAN BE DONE TO SUPPORT A WILL

The “Self-Proving Affidavit” form is optional but can be done with a Will to reduce later legal work. This is a statutory form found in law to use if wanted at Minn. Stat. § 524.2-504.

FORM SAVES LATER WORK OF SHOWING WILL WAS PROPERLY SIGNED

A Self-Proving Affidavit is optional but can later help “prove” a Will was signed by the Testator doing the Will and 2 witnesses. If this form is not done then after a death a little work is required to get evidence from either a) the 2 witnesses to Will signing, b) persons familiar with signatures of people, or c) a handwriting expert. If this form is not done there is some risk a Will won't be followed later. But of people doing Wills about half skip the work of doing a Self-Proving Affidavit mostly due to the hassle of using a notary on top of 2 witnesses each time a Will is done or re-done, and since it usually just saves a little work of people likely happy to do work to gets things using a Will. Some states have no Self-Proving Affidavit form and manage to do fine without it.

FORM IS DONE BY TESTATOR AND 2 WITNESSES SIGNING BEFORE NOTARY

To be valid a notary (also called “notary public”) must see the Testator and the 2 Will witnesses sign the Self-Proving Affidavit form, and then the notary also signs and ink stamps the form (they “notarize” it). Some court officials can also do this. A notary can be found at some banks, insurance agents, government offices, libraries, courts, copy-mail centers, or by looking in phonebook, and they tend to help existing customers or people who pay a small fee. The Self-Proving Affidavit form can only be signed after a Will is signed and not before. The Self-Proving Affidavit form is often done a few minutes after a Will is signed, but it also can be done later (even years later) when the Testator and 2 witnesses can all together be in front of a notary. Once done the Self-Proving Affidavit if often kept with the Will.

SELF-PROVING AFFIDAVIT

(Minn. Stat. § 524.2-504)

State of Minnesota

County of _____

We, _____, _____, and _____, the Testator and the Witnesses, respectively, whose names are signed to the attached or foregoing instrument, being first duly sworn, do hereby declare to the undersigned authority that the Testator signed and executed the instrument as the Testator's Will and that the Testator had signed willingly (or willingly directed another to sign for the Testator), and that the Testator executed it as the Testator's free and voluntary act for the purposes therein expressed, and each of the Witnesses, in the presence and hearing of the Testator, signed the Will acting as witness and that to the best of the Witness' knowledge the Testator was at the time 18 years of age or older, of sound mind, and under no constraint or undue influence.

Testator

Witness

Witness

Subscribed, sworn to, and acknowledged in my presence by _____
the Testator, and subscribed and sworn to in my presence by _____
and _____, Witnesses, this _____ day of _____, 20____.

(Seal)

(Signed) _____

(Official capacity of officer)

CHAPTER 10

FORM 4: TANGIBLE PERSONAL PROPERTY LIST

LETS SMALL GIFTS OF SOME PROPERTY BE EASILY MADE OUTSIDE WILL

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

FORM GIVES EASY QUICK WAY TO WRITE GIFTS

A List form lets a person before or after Will has been done easily write more gifts of property to occur after their death. For Lists to be used a Will must say they can be used, and this book’s Will forms say this. If List and Will gift the same item then the Will is followed. People can do many List pages over time and all can count. If multiple Lists gift the same item the more recently done List controls. People can change Lists by crossing out, erasing, or adding words, but people then should put a new date and signature at bottom. To help reduce cut uncertainty and delay this book’s forms say a List not found within 90 days of death will be ignored. People to cancel List can rip it, mark it like “void” or “X”, or throw it away.

It may help understanding to see the Minnesota law allowing Lists, which says:

“Minn. Stat. § 524.2-513 SEPARATE WRITING IDENTIFYING BEQUEST OF TANGIBLE PROPERTY.

A will may refer to a written statement or list to dispose of items of tangible personal property not otherwise specifically disposed of by the will, other than money and coin collections, and property used in trade or business.

To be admissible under this section as evidence of the intended disposition, the writing must be referred to in the will, must be either in the handwriting of the testator or be signed by the testator, and must describe the items and the devisees with reasonable certainty.

The writing may be referred to as one to be in existence at the time of the testator's death; it may be prepared before or after the execution of the will; it may be altered by the testator after its preparation; and it may be a writing which has no significance apart from its effect upon the dispositions made by the will.

A writing may include multiple writings and if an item of tangible personal property is disposed of to different persons by different writings, the most recent writing controls the disposition of the item.”

FORM CAN ONLY GIFT “TANGIBLE PERSONAL PROPERTY”

The List form legally can only gift “tangible personal property” so only tangible (touchable) things (not accounts or most investments) and not “real property” (not land or buildings). It can’t cover cash or coins even if they are antiques. It can’t cover items actually used in a business including inventory or equipment. Improper property written in a List will later just be ignored.

TO COMPLETE FORM JUST SIGN AND DATE IT

To be valid a List form must be signed and dated. List pages are often kept paper-clipped to a Will.

TANGIBLE PERSONAL PROPERTY LIST

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

I may do many pages of these writings which should all be seen as one document.
If there are conflicts among such writings the provisions of the more recent writing
will revoke the inconsistent provisions of a prior writing.

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: HEALTH CARE DIRECTIVE

FORM CAN COVER SOME HEALTH CARE ISSUES

This form lets a person do some things involving their health care. This form is a statutory form found in state law for people to use if wanted, and it is found at Minn. Stat. § 145C.16. A person doing this form can skip any part including Health Care Agent part, general instructions part, or part about stopping care.

CAN NAME “HEALTH CARE AGENT” AND GIVE INSTRUCTIONS

The form lets a “Health Care Agent” be named to have power to control health care if a person is later incapacitated so can’t control health care themselves. Often named as Agent is a spouse, adult child, other relative, or a friend. Naming a family member can avoid any need to rush to see a judge for power in a health emergency. A person’s doctor or anyone associated with a place giving health care can’t normally be Agent. There is a spot to name a second person to serve if the first person is unavailable but this is rarely needed and often skipped. In the form some health care instructions can also be written but many people skip this since it’s hard to write clear instructions for all situations that won’t risk delay or legal issues.

IN PART OF FORM A PERSON CAN EXPLAIN WHEN TO STOP CARE

In part of the form a person can write about stopping health care if later when person is incapacitated the doctors or family think their health is very bad and unlikely to improve. The form has spots to say what treatments to stop and how bad must health be. Many people skip this part since they don’t want to say these serious things, or they trust their Agent or family to act wisely if needed. But some people have strong feelings about stopping care and think an Agent or family may not wisely stop health care without guidance. Saying to stop care in some situations is often called doing a “Living Will”.

PERSON SIGNS FORM USING A NOTARY OR 2 WITNESSES

To complete this form a person must sign it using a notary or, alternatively, using 2 good witnesses. If using witnesses they should be at least 18 and neither witness can be named as main or fallback Agent in the form, and 1 witness must not be an employee or have ties to a place giving health care to the person. Once the form is completed a person can keep it to hand out later if needed but most people immediately hand it to the Agent. Usually this form should quickly be shown to any doctor or place that may give care to make it part of a person’s medical file. To cancel the form a person should tell any Agent and take back copies and then usually tell any place shown the form that it is canceled.

HEALTH CARE DIRECTIVE

Minn. Stat. § 145C.16

I, _____, understand this document allows me to do ONE OR BOTH of the following:

PART I: Name another person (called the health care agent) to make health care decisions for me if I am unable to decide or speak for myself. My health care agent must make health care decisions for me based on the instructions I provide in this document (Part II), if any, the wishes I have made known to him or her, or must act in my best interest if I have not made my health care wishes known.

AND/OR

PART II: Give health care instructions to guide others making health care decisions for me. If I have named a health care agent, these instructions are to be used by the agent. These instructions may also be used by my health care providers, others assisting with my health care and my family, in the event I cannot make decisions for myself.

PART I: APPOINTMENT OF HEALTH CARE AGENT

THIS IS WHO I WANT TO MAKE HEALTH CARE DECISIONS FOR ME IF I AM UNABLE TO DECIDE OR SPEAK FOR MYSELF

(I know I can change my agent or alternate agent at any time and I know I do not have to appoint an agent or an alternate agent)

NOTE: If you appoint an agent, you should discuss this health care directive with your agent and give your agent a copy. If you do not wish to appoint an agent, you may leave Part I blank and go to Part II.

When I am unable to decide or speak for myself, I trust and appoint _____
_____ to make health care decisions for me.
This person is called my health care agent.

Relationship of my health care agent to me: _____

Telephone number of my health care agent: _____

Address of my health care agent: _____

(OPTIONAL) APPOINTMENT OF ALTERNATE HEALTH CARE AGENT: If my health care agent is not reasonably available, I trust and appoint _____
to be my health care agent instead.

Relationship of my alternate health care agent to me: _____

Telephone number of my alternate health care agent: _____

Address of my alternate health care agent: _____

**THIS IS WHAT I WANT MY HEALTH CARE AGENT TO BE ABLE TO
DO IF I AM UNABLE TO DECIDE OR SPEAK FOR MYSELF**

(I know I can change these choices)

My health care agent is automatically given the powers listed below in (A) through (D). My health care agent must follow my health care instructions in this document or any other instructions I have given to my agent. If I have not given health care instructions, then my agent must act in my best interest.

Whenever I am unable to decide or speak for myself, my health care agent has the power to:

(A) Make any health care decision for me. This includes the power to give, refuse, or withdraw consent to any care, treatment, service, or procedures. This includes deciding whether to stop or not start health care that is keeping me or might keep me alive, and deciding about intrusive mental health treatment.

(B) Choose my health care providers.

(C) Choose where I live and receive care and support when those choices relate to my health care needs.

(D) Review my medical records and have the same rights that I would have to give my medical records to other people.

If I DO NOT want my health care agent to have a power listed above in (A) through (D) OR if I want to LIMIT any power in (A) through (D), I MUST say that here:

My health care agent is NOT automatically given the powers listed below in (1) and (2). If I WANT my agent to have any of the powers in (1) and (2), I must INITIAL the line in front of the power; then my agent WILL HAVE that power.

_____ (1) To decide whether to donate any parts of my body, including organs, tissues, and eyes, when I die.

_____ (2) To decide what will happen with my body when I die (burial, cremation).

If I want to say anything more about my health care agent's powers or limits on the powers, I can say it here:

PART II: HEALTH CARE INSTRUCTIONS

NOTE: Complete this Part II if you wish to give health care instructions. If you appointed an agent in Part I, completing this Part II is optional but would be very helpful to your agent. However, if you chose not to appoint an agent in Part I, you MUST complete some or all of this Part II if you wish to make a valid health care directive.

These are instructions for my health care when I am unable to decide or speak for myself. These instructions must be followed (so long as they address my needs).

THESE ARE MY BELIEFS AND VALUES ABOUT MY HEALTH CARE

(I know I can change these choices or leave any of them blank)

I want you to know these things about me to help you make decisions about my health care:

My goals for my health care:

My fears about my health care:

My spiritual or religious beliefs and traditions:

My beliefs about when life would be no longer worth living:

My thoughts about how my medical conditions might affect my family:

THIS IS WHAT I WANT AND DO NOT WANT FOR MY HEALTH CARE

(I know I can change these choices or leave any of them blank)

Many medical treatments may be used to try to improve my medical condition or to prolong my life. Examples include artificial breathing by a machine connected to a tube in the lungs, artificial feeding or fluids through tubes, attempts to start a stopped heart, surgeries, dialysis, antibiotics, and blood transfusions. Most medical treatments can be tried for a while and then stopped if they do not help.

I have these views about my health care in these situations:

(Note: You can discuss general feelings, specific treatments, or leave any of them blank)

If I had a reasonable chance of recovery, and were temporarily unable to decide or speak for myself, I would want:

If I were dying and unable to decide or speak for myself, I would want:

If I were permanently unconscious and unable to decide or speak for myself, I would want:

If I were completely dependent on others for my care and unable to decide or speak for myself, I would want:

In all circumstances, my doctors, advanced practice registered nurses, or physician assistants will try to keep me comfortable and reduce my pain. This is how I feel about pain relief if it would affect my alertness or if it could shorten my life:

There are other things that I want or do not want for my health care, if possible:

Who I would like to be my doctor, advanced practice registered nurse, or physician assistant:

Where I would like to live to receive health care:

Where I would like to die and other wishes I have about dying:

My wishes about donating parts of my body when I die:

My wishes about what happens to my body when I die (cremation, burial):

Any other things:

PART III: MAKING THE DOCUMENT LEGAL

This document must be signed by me. It also must either be verified by a notary public (Option 1) OR witnessed by two witnesses (Option 2). It must be dated when it is verified or witnessed.

I am thinking clearly, I agree with everything that is written in this document, and I have made this document willingly.

My Signature

Date signed: _____

Date of birth: _____

Address: _____

If I cannot sign my name, I can ask someone to sign this document for me.

Signature of the person who I asked to sign this document for me.

Printed name of the person who I asked to sign this document for me

Option 1: Notary Public

Notary:

In my presence on _____ (date), _____
(name) acknowledged his/her signature on this document or acknowledged that he/she authorized the person signing this document to sign on his/her behalf. I am not named as a health care agent or alternate health care agent in this document.

(Signature of Notary)

Option 2: Two Witnesses

Two witnesses must sign. Only one of the two witnesses can be a health care provider or an employee of a health care provider giving direct care to me on the day I sign this document.

Witness One:

(i) In my presence on _____ (date), _____ (name) acknowledged his/her signature on this document or acknowledged that he/she authorized the person signing this document to sign on his/her behalf.

(ii) I am at least 18 years of age.

(iii) I am not named as a health care agent or an alternate health care agent in this document.

(iv) If I am a health care provider or an employee of a health care provider giving direct care to the person listed above in (A), I must initial this box: []

I certify that the information in (i) through (iv) is true and correct.

(Signature of Witness One)

Address: _____

Witness Two:

(i) In my presence on _____ (date), _____ (name) acknowledged his/her signature on this document or acknowledged that he/she authorized the person signing this document to sign on his/her behalf.

(ii) I am at least 18 years of age.

(iii) I am not named as a health care agent or an alternate health care agent in this document.

(iv) If I am a health care provider or an employee of a health care provider giving direct care to the person listed above in (A), I must initial this box: []

I certify that the information in (i) through (iv) is true and correct.

(Signature of Witness Two)

Address: _____

REMINDER: Keep this document with your personal papers in a safe place (not in a safe deposit box). Give signed copies to your doctors, advanced practice registered nurses, physician assistants, family, close friends, health care agent, and alternate health care agent. Make sure your doctor, advanced practice registered nurse, or physician assistant is willing to follow your wishes. This document should be part of your medical record at your physician's, advanced practice registered nurse's, or physician assistant's office and at the hospital, home care agency, hospice, or nursing facility where you receive your care.

CHAPTER 12

FORM 6: PROVIDER ORDERS FOR LIFE-SUSTAINING TREATMENT

IN FORM CAN REFUSE HEALTH CARE STARTING IMMEDIATELY

The Providers Orders For Life-Sustaining Treatment form, often called the P.O.L.S.T. form, lets a person say to immediately no longer try medical treatments listed in the form. This form only matters if a person later is incapacitated. This form is very serious and is rarely done. The form is short so it can be read fast by paramedics or similar people outside hospitals or similar places. The form can be used inside hospitals or similar places if wanted. This form is often called a Do-Not-Resuscitate form.

FORMS SAYS TO IMMEDIATELY NOT GIVE CERTAIN HEALTH CARE LISTED

The form says to immediately no longer try certain health care listed in the form, such as C.P.R. (this is cardio-pulmonary resuscitation to help restart the heart or breathing). A person can say to not try many other kinds of health care. A doctor can explain the options to a person. A person if not incapacitated can change their mind like by not showing form to paramedics or telling everyone to ignore the form. If this form is done any needed pain relief and comfort care is still usually given.

FORM IS SIGNED BY PERSON AND PERSON'S DOCTOR

The form must be signed by a person and their doctor or similar health professional. The form once it is signed should be shown to places that may give care to make it part of a person's medical file. Often people using this form keep it nearby to show to paramedics or similar people who may try to give some health care (like in a pocket, on a bedside table, taped on fridge, in wallet, or as part of a special bracelet for Minnesota). To cancel the form people usually should tell all places that saw the form it is canceled. Most people tell their family if they do this form so family are not surprised and can later inform health care people if needed.

MINNESOTA

Provider Orders for Life-Sustaining Treatment (POLST)

Follow these orders until orders change. These medical orders are based on the patient's current medical condition and preferences. Any section not completed does not invalidate the form and implies full treatment for that section. With significant change of condition new orders may need to be written. Patients should always be treated with dignity and respect.

LAST NAME FIRST NAME MIDDLE INITIAL

DATE OF BIRTH

PRIMARY MEDICAL CARE PROVIDER NAME PRIMARY MEDICAL CARE PROVIDER PHONE (WITH AREA CODE)

A

CHECK ONE

CARDIOPULMONARY RESUSCITATION (CPR) *Patient has no pulse and is not breathing.*

- ☐ **Attempt** Resuscitation / CPR (Note: selecting this requires selecting "Full Treatment" in Section B).
- ☐ **Do Not Attempt** Resuscitation / DNR (Allow Natural Death).

When not in cardiopulmonary arrest, follow orders in B.

B

CHECK ONE
(NOTE REQUIREMENTS)

MEDICAL TREATMENTS *Patient has pulse and/or is breathing.*

- ☐ **Full Treatment.** Use intubation, advanced airway interventions, and mechanical ventilation as indicated. Transfer to hospital and/or intensive care unit if indicated. All patients will receive comfort-focused treatments.
TREATMENT PLAN: Full treatment including life support measures in the intensive care unit.
- ☐ **Selective Treatment.** 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). Transfer to hospital if indicated. Generally avoid the intensive care unit. All patients will receive comfort-focused treatments.
TREATMENT PLAN: Provide basic medical treatments aimed at treating new or reversible illness.
- ☐ **Comfort-Focused Treatment (Allow Natural Death).** 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. Patient prefers no transfer to hospital for life-sustaining treatments. Transfer if comfort needs cannot be met in current location.
TREATMENT PLAN: Maximize comfort through symptom management.

C

CHECK ALL THAT APPLY

DOCUMENTATION OF DISCUSSION

- ☐ **Patient** (*Patient has capacity*) ☐ **Court-Appointed Guardian** ☐ **Other Surrogate**
- ☐ **Parent of Minor** ☐ **Health Care Agent** ☐ **Health Care Directive**

SIGNATURE OF PATIENT OR SURROGATE

SIGNATURE (**STRONGLY RECOMMENDED**) NAME (PRINT)

RELATIONSHIP (IF YOU ARE THE PATIENT, WRITE "SELF") PHONE (WITH AREA CODE)

Signature acknowledges that these orders reflect the patient's treatment wishes. Absence of signature does not negate the above orders.

D

SIGNATURE OF PHYSICIAN / APRN / PA

My signature below indicates to the best of my knowledge that these orders are consistent with the patient's current medical condition and preferences.

NAME (PRINT) (**REQUIRED**) LICENSE TYPE (**REQUIRED**) PHONE (WITH AREA CODE)SIGNATURE (**REQUIRED**) DATE (**REQUIRED**)

SEND FORM WITH PATIENT WHENEVER TRANSFERRED OR DISCHARGED. FAXED, PHOTOCOPIED OR ELECTRONIC VERSIONS OF THIS FORM ARE VALID.

INFORMATION FOR

PATIENT NAMED ON THIS FORM

HIPAA PERMITS DISCLOSURE TO HEALTH CARE PROVIDERS AS NECESSARY FOR TREATMENT

E

CHECK
ONE
FROM
EACH
SECTION

ADDITIONAL PATIENT PREFERENCES (OPTIONAL)

ARTIFICIALLY ADMINISTERED NUTRITION *Offer food by mouth if feasible.*

- ☐ Long-term artificial nutrition by tube.
- ☐ Defined trial period of artificial nutrition by tube.
- ☐ No artificial nutrition by tube.

ANTIBIOTICS

- ☐ Use IV/IM antibiotic treatment.
- ☐ Oral antibiotics only (no IV/IM).
- ☐ No antibiotics. Use other methods to relieve symptoms when possible.

ADDITIONAL PATIENT PREFERENCES *(e.g. dialysis, duration of intubation).*

HEALTH CARE PROVIDER WHO PREPARED DOCUMENT

PREPARER NAME (REQUIRED)

PREPARER TITLE (REQUIRED)

PREPARER PHONE (WITH AREA CODE) (REQUIRED)

DATE PREPARED (REQUIRED)

NOTE TO PATIENTS AND SURROGATES

The POLST form is always voluntary and is for persons with advanced illness or frailty. POLST records your wishes for medical treatment in your current state of health. Once initial medical treatment is begun and the risks and benefits of further therapy are clear, your treatment wishes may change. Your medical care and this form can be changed to reflect your new wishes at any time. However, no form

can address all the medical treatment decisions that may need to be made. A Health Care Directive is recommended for all capable adults, regardless of their health status. A Health Care Directive allows you to document in detail your future health care instructions and/or name a Health Care Agent to speak for you if you are unable to speak for yourself.

DIRECTIONS FOR HEALTH CARE PROVIDERS

Completing POLST

- Completing a POLST is always voluntary and cannot be mandated for a patient.
- POLST should reflect current preferences of persons with advanced illness or frailty. Also, encourage completion of a Health Care Directive.
- Verbal / phone orders are acceptable with follow-up signature by physician/APRN/PA in accordance with facility/community policy.
- A surrogate may include a court appointed guardian, Health Care Agent designated in a Health Care Directive, or a person whom the patient's health care provider believes best knows what is in the patient's best interest and will make decisions in accordance with the patient's expressed wishes and values to the extent known, such as a verbally designated surrogate, spouse, registered domestic partner, parent of a minor, or closest available relative.

Reviewing POLST

This POLST should be reviewed periodically, and if:

- The patient is transferred from one care setting or care level to another, or
- There is a substantial change in the patient's health status, or
- The patient's treatment preferences change, or
- The patient's Primary Medical Care Provider changes.

Voiding POLST

- A person with capacity, or the valid surrogate of a person without capacity, can void the form and request alternative treatment.
- Draw line through sections A through E and write "VOID" in large letters if POLST is replaced or becomes invalid.
- If included in an electronic medical record, follow voiding procedures of facility/community.

SEND FORM WITH PATIENT WHENEVER TRANSFERRED OR DISCHARGED. FAXED, PHOTOCOPIED OR ELECTRONIC VERSIONS OF THIS FORM ARE VALID.

CHAPTER 13

FORM 7: STATUTORY SHORT FORM POWER OF ATTORNEY

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

This form lets a person give power to someone to do things with the person's money, property, and more. Some people call this form a "Financial Power Of Attorney". This form is a statutory form written into state law for people to use if they want, and it is located at Minn. Stat. § 523.23.

FORM GIVES POWER TO LET SOMEONE CONTROL PROPERTY AND MONEY

This form lets a person give power to someone to do acts involving their money, property, and more. Often named to get power is a very trusted person like a spouse, relative, or friend. In the form the person giving power is called the "Principal" and person getting power is called the "Attorney in Fact" (or "Agent"). Giving power to someone can let them help by paying bills, moving money, buying or selling items, signing contracts, hiring people, taking out debt, and getting information. This form might help if a person is sick, busy, or away, and may avoid need for nursing home or legal action at court. A person who did the form if still rational and not incapacitated can always overrule or fire an Attorney-in-Fact so really power is shared. The form is "durable" which means the form still has power even if person who did the form is incapacitated. Naming a second fallback person to act is rarely needed so is rarely done. If using this form a signature should be like, for example: "Ed Doe signing as Attorney-in-Fact under a Power of Attorney for Ann Wu".

IN FORM INITIAL LINES TO PICK THE POWERS THAT ARE GIVEN

In the form are spots to initial to say which powers are given. Most people give most powers since they trust the person getting power and, also, a bank may not follow the form if power given is not clear. To give power in most areas a person can initial the line that reads: "(N) ____ all of the powers listed".

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

Doing this form can be risky and lead to loss of money and property since the Attorney-in-Fact given power can do dumb things like unwise purchases or investments or do criminal actions like stealing. An Attorney-in-Fact can be sued later if they don't act reasonably, but they later may be out of money so can't pay to undo any harm. Usually banks or others can't be blamed for obeying an Attorney-in-Fact. This area of law is complex and basic acts may be fine (like paying bills, moving funds, or getting records) but less usual acts may be improper (like gifting money away even if to a person's family, buying unusual things, or making unusual or risky investments). Many people skip this form or ask a lawyer for advice.

SIGN FORM IN FRONT OF A NOTARY

The form must be signed by person in front of a notary who then signs and notarizes the form. There is a page of warnings for the person doing the form to later sign. There is a page of warnings for the person getting power to later read and also a spot for them to put an example "specimen signature" if they want. Some careful people quickly show the form to banks or similar places to explain they should follow the form. Once done a person can keep the form but many people quickly give it to the person getting power to use. To cancel the form a person should take back copies and usually tell all places shown the form it's canceled.

STATUTORY SHORT FORM POWER OF ATTORNEY

MINNESOTA STATUTES, SECTION 523.23

Before completing and signing this form, the principal must read and initial the IMPORTANT NOTICE TO PRINCIPAL that appears after the signature lines in this form. Before acting on behalf of the principal, the attorney(s)-in-fact must sign this form acknowledging having read and understood the IMPORTANT NOTICE TO ATTORNEY(S)-IN-FACT that appears after the notice to the principal.

PRINCIPAL (Name and Address of Person Granting the Power)

ATTORNEY(S)-IN-FACT (Name and Address)

SUCCESSOR ATTORNEY(S)-IN-FACT (Optional) To act if any named attorney-in-fact dies, resigns, or is otherwise unable to serve. (Name and Address)

First Successor

Second Successor

NOTICE: If more than one attorney-in-fact is designated to act at the same time, make a check or "x" on the line in front of one of the following statements:

_____ Each attorney-in-fact
may independently exercise
the powers granted.

_____ All attorneys-in-fact
must jointly exercise the
powers granted.

EXPIRATION DATE (Optional)

Use Specific Month Day Year Only

I, (the above-named Principal) hereby appoint the above named Attorney(s)-in-Fact to act as my attorney(s)-in-fact:

FIRST: To act for me in any way that I could act with respect to the following matters, as each of them is defined in Minnesota Statutes, section 523.24:

(To grant to the attorney-in-fact any of the following powers, make a check or "x" on the line in front of each power being granted. You may, but need not, cross out each power not granted. Failure to make a check or "x" on the line in front of the power will have the effect of deleting the power unless the line in front of the power of (N) is checked or x-ed.)

_____ (A) real property transactions;

I choose to limit this power to real property in _____ County, Minnesota,
described as follows: (Use legal description. Do not use street address.)

(If more space is needed, continue on the back or on an attachment.)

_____ (B) tangible personal property transactions;

_____ (C) bond, share, and commodity transactions;

_____ (D) banking transactions;

_____ (E) business operating transactions;

_____ (F) insurance transactions;

_____ (G) beneficiary transactions;

_____ (H) gift transactions;

_____ (I) fiduciary transactions;

_____ (J) claims and litigation;

_____ (K) family maintenance

_____ (L) benefits from military service;

_____ (M) records, reports, and statements;

_____ (N) all of the powers listed in (A) through (M) above and all other matters, other than health care decisions under a health care directive that complies with Minnesota Statutes, chapter 145C.

SECOND: (You must indicate below whether or not this power of attorney will be effective if you become incapacitated or incompetent. Make a check or "x" on the line in front of the statement that expresses your intent.)

_____ This power of attorney shall continue to be effective if I become incapacitated or incompetent.

_____ This power of attorney shall not be effective if I become incapacitated or incompetent.

THIRD: My attorney(s)-in-fact MAY NOT make gifts to the attorney(s)-in-fact, or anyone the attorney(s)-in-fact are legally obligated to support, UNLESS I have made a check or an "x" on the line in front of the second statement below and I have written in the name(s) of the attorney(s)-in-fact. The second option allows you to limit the gifting power to only the attorney(s)-in-fact you name in the statement.

Minnesota Statutes, section 523.24, subdivision 8, clause (2), limits the annual gift(s) made to my attorney(s)-in-fact, or to anyone the attorney(s)-in-fact are legally obligated to support, to an amount, in the aggregate, that does not exceed the federal annual gift tax exclusion amount in the year of the gift.

_____ I do not authorize any of my attorney(s)-in-fact to make gifts to themselves or to anyone the attorney(s)-in-fact have a legal obligation to support.

_____ I authorize _____ (write in name(s)),
as my attorney(s)-in-fact, to make gifts to themselves or to anyone the attorney(s)-in-fact have a legal obligation to support.

FOURTH: (You may indicate below whether or not the attorney-in-fact is required to make an accounting. Make a check or "x" on the line in front of the statement that expresses your intent.)

My attorney-in-fact need not render an accounting unless I request it or the accounting is otherwise required by Minnesota Statutes, section 523.21.

My attorney-in-fact must render _____
(Monthly, Quarterly, Annual)

accountings to me or _____ (Name and Address)
during my lifetime, and a final accounting to the personal representative of my estate, if any is appointed, after my death.

In Witness Whereof I have hereunto signed my name this _____ **day of** _____, **20** _____,

(Signature of Principal)

(Acknowledgment of Principal)

STATE OF MINNESOTA)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 20____,
by _____ (Insert Name of Principal)

(Signature of Notary Public or other Official)

Acknowledgment of notice to attorney(s)-in-fact and specimen signature of attorney(s)-in-fact.

By signing below, I acknowledge I have read and understand the IMPORTANT NOTICE TO ATTORNEY(S)-IN-FACT required by Minnesota Statutes, section 523.23, and understand and accept the scope of any limitations to the powers and duties delegated to me by this instrument.

(Notarization not required)

Specimen Signature of Attorney(s)-in-Fact
(Notarization not required)

This instrument was drafted by:

IMPORTANT NOTICE TO THE PRINCIPAL

READ THIS NOTICE CAREFULLY. The power of attorney form that you will be signing is a legal document. It is governed by Minnesota Statutes, chapter 523. If there is anything about this form that you do not understand, you should seek legal advice.

PURPOSE: The purpose of the power of attorney is for you, the principal, to give broad and sweeping powers to your attorney(s)-in-fact, who is the person you designate to handle your affairs. Any action taken by your attorney(s)-in-fact pursuant to the powers you designate in this power of attorney form binds you, your heirs and assigns, and the representative of your estate in the same manner as though you took the action yourself.

POWERS GIVEN: You will be granting the attorney(s)-in-fact power to enter into transactions relating to any of your real or personal property, even without your consent or any advance notice to you. The powers granted to the attorney(s)-in-fact are broad and not supervised.

THIS POWER OF ATTORNEY DOES NOT GRANT ANY POWERS TO MAKE HEALTH CARE DECISIONS FOR YOU. TO GIVE SOMEONE THOSE POWERS, YOU MUST USE A HEALTH CARE DIRECTIVE THAT COMPLIES WITH MINNESOTA STATUTES, CHAPTER 145C.

DUTIES OF YOUR ATTORNEY(S)-IN-FACT: Your attorney(s)-in-fact must keep complete records of all transactions entered into on your behalf. You may request that your attorney(s)-in-fact provide you or someone else that you designate a periodic accounting, which is a written statement that gives reasonable notice of all transactions entered into on your behalf. Your attorney(s)-in-fact must also render an accounting if the attorney-in-fact reimburses himself or herself for any expenditure they made on behalf of you.

An attorney-in-fact is personally liable to any person, including you, who is injured by an action taken by an attorney-in-fact in bad faith under the power of attorney or by an attorney-in-fact's failure to account when the attorney-in-fact has a duty to account under this section. The attorney(s)-in-fact must act with your interests utmost in mind.

TERMINATION: If you choose, your attorney(s)-in-fact may exercise these powers throughout your lifetime, both before and after you become incapacitated. However, a court can take away the powers of your attorney(s)-in-fact because of improper acts. You may also revoke this power of attorney if you wish. This power of attorney is automatically terminated if the power is granted to your spouse and proceedings are commenced for dissolution, legal separation, or annulment of your marriage.

This power of attorney authorizes, but does not require, the attorney(s)-in-fact to act for you. You are not required to sign this power of attorney, but it will not take effect without your signature. You should not sign this power of attorney if you do not understand everything in it, and what your attorney(s)-in-fact will be able to do if you do sign it.

Please place your initials on the following line indicating you have read this IMPORTANT NOTICE TO THE PRINCIPAL: _____

IMPORTANT NOTICE TO THE ATTORNEY(S)-IN-FACT

You have been nominated by the principal to act as an attorney-in-fact. You are under no duty to exercise the authority granted by the power of attorney. However, when you do exercise any power conferred by the power of attorney, you must:

- (1) act with the interests of the principal utmost in mind;
- (2) exercise the power in the same manner as an ordinarily prudent person of discretion and intelligence would exercise in the management of the person's own affairs;
- (3) render accountings as directed by the principal or whenever you reimburse yourself for expenditures made on behalf of the principal;
- (4) act in good faith for the best interest of the principal, using due care, competence, and diligence;
- (5) cease acting on behalf of the principal if you learn of any event that terminates this power of attorney or terminates your authority under this power of attorney, such as revocation by the principal of the power of attorney, the death of the principal, or the commencement of proceedings for dissolution, separation, or annulment of your marriage to the principal;
- (6) disclose your identity as an attorney-in-fact whenever you act for the principal by signing in substantially the following manner:

Signature by a person as "attorney-in-fact for (name of the principal)"

or

"(name of the principal) by (name of the attorney-in-fact) the principal's attorney-in-fact";

- (7) acknowledge you have read and understood this **IMPORTANT NOTICE TO THE ATTORNEY(S)-IN-FACT** by signing the power of attorney form.

You are personally liable to any person, including the principal, who is injured by an action taken by you in bad faith under the power of attorney or by your failure to account when the duty to account has arisen.

The meaning of the powers granted to you is contained in Minnesota Statutes, chapter 523. If there is anything about this document or your duties that you do not understand, you should seek legal advice.

CHAPTER 14

FORM 8: POWER OF ATTORNEY OVER CHILD

FORM LETS PARENT GIVE POWER TO SOMEONE OVER CHILD

This form lets a parent give power over a child under age 18 to someone to let them make decisions about the child if needed. Note, some terminally ill parents may want to do a “standby guardian” form instead of this form.

FORM CAN DESIGNATE SOMEONE TO HAVE POWER OVER CHILD

In the form a parent (called the “Principal”) can give someone (called the “Attorney-in-Fact”) power over a minor child under age 18. This form is often used if a parent or child is away from the other for work, school, sports, drug treatment, prison, immigration, military, long visit with family or friends, or if a child is sick in hospital and needs a person close by. Often given power is a family relative, friend, or teacher. The form is not usually done for minor or brief situations like a babysitter, daycare, week with relative, or cases when a parent can come fast. This form may avoid need for other legal actions. A parent usually can fire the person who got power or over-rule a decision.

FORM IS SIGNED BY PARENT WHEN IN FRONT OF A NOTARY

The form is signed by a parent in front of a notary who then signs and notarizes the form. The form can be modified to add room for a 2nd parent to sign to make it likelier people trust the form, or modified to let a legal guardian not a parent use the form. Once done some cautious parents quickly show the form to schools and doctors to explain they should follow it later. The person who did the form can keep the form but often they quickly hand it to the person getting power to use if needed. To cancel the form a parent should tell the person who got power and take back copies and maybe tell places that were shown the form. Usually a form is done for each child but the form can be modified to cover several children. At end of the form is a spot for the person getting power to sign before they use the form. If only 1 parent does the form then under Minnesota law the other parent must quickly be given a copy unless special circumstances exist.

POWER OF ATTORNEY OVER CHILD

1. I, _____ am the parent of _____, born on _____, and I meet requirements to make the grants of power and authority contained herein and under Minn. Stat. § 524.5-211.

2. I, as Principal, hereby name and appoint _____ residing at _____, to be my true and lawful Attorney-in-Fact for me and in my name and place for the above-named child and to have the power and authority to do anything and all I could do if personally present, including for all care, custody, and property of the child.

3. Without limiting any grant of power and authority I specifically grant and give the above-named Attorney-in-Fact full power and authority in matters involving the child and:

- a) schooling including choice of schools and enrollment, classes, and all activities;
- b) money, property, benefits, or insurance owned by or involving the above-named child;
- c) custody and care including housing, control of schedule, and discipline; and
- d) health care including permission and consent to medical and/or dental care without delay and without contacting anyone but the Attorney-in-Fact, access and review of medical and personal records, transport including an ambulance, admission to any hospital or other facility, use of drugs and medications including anesthesia, surgery, and any other minor or major care.

4. This document is effective when signed and valid for a period of _____ (up to one year) following the date of my signature.

I hereby grant my Attorney-in-Fact full power and authority to execute all instruments, and power and authority to do every act and thing necessary or helpful in exercising any of the powers given under this Power of Attorney, but no power over marriage or adoption is given.

Revocation is not effective until parties get actual notice, copies of this document may be relied upon, and I agree to indemnify any party for claims related to reliance on this document.

I understand I am obligated by Minn. Stat. § 524.5-211 to mail or give a copy of this document to any other parent within 30 days of its execution under certain circumstances.

IN TESTIMONY WHEREOF, I have hereunto set my hand this _____ day of _____, 20____.

Signature of Parent

Subscribed and sworn to before me this _____ day of _____, 20____.

Notary Public _____

I hereby accept the foregoing Power Of Attorney Over Child for the child named _____.

Signature of Attorney-in-Fact: _____

CHAPTER 15

FORM 9: FINAL WISHES

FORM LETS PERSON DO ACTIONS TO CONTROL THEIR BODY AFTER DEATH

This form lets a person do things to control their body after death (including related things like funeral, burial, cremation, and ceremonies).

CAN NAME PERSON TO CONTROL DEAD BODY AND GIVE INSTRUCTIONS

This form lets a person give power to someone to control disposition (which means final handling) of their dead body and related issues like burial, cremation, ceremonies, and goods and services for all this. If this form is not done then under Minnesota law control is by closest family (in order this means a spouse, adult child, parents, then brothers or sisters). People do this form rarely and only if it seems family may be too upset while mourning, be bad with money, or do unwanted things. Payment for any funeral, burial, cremation, and related things will come from pre-paid funeral accounts, insurance, and the decedent's money and property. The form has a spot to give instructions that must be followed but many people skip this and trust the person named in the form or their family to do what they mentioned they wanted.

SIGN FORM WITH NOTARY AND 2 WITNESSES

This form is signed by a person in front of 2 people acting as witnesses who then also sign. Witnesses should be at least age 18 and not named in the form to get power. To cancel the form a person should tell the person given power and take back copies and maybe tell places that were shown the form.

FINAL WISHES

I, _____ (name of person doing this document) as allowed by law including Minn. Stat. § 149A.80 do hereby order the following be done involving my body after death and its final disposition and related things.

DESIGNATION OF PERSON

In accord with Minnesota Statute § 149A.80 and other laws I designate this person to have the right to control my body after death and its final disposition:

(name and contact information for this person).

INSTRUCTIONS

I want the following things involving my bodily remains, funeral, burial, cremation, ceremonies, involvement of people, details for events, tombstone or marker, and other goods and services:

I want the following persons to be specially informed of my death:

SIGNATURE OF PERSON DOING FORM

Signed: _____

Date: _____

SIGNATURE OF WITNESSES

Statement: I personally witnessed signing of this document by the above-named person, and I certify that I am not the person named to control the body after death and its final disposition.

Witness: _____

Witness: _____

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

LAST WILL AND TESTAMENT

I, Paul Samuel Maxwell, of Dakota County, Minnesota do revoke all prior Wills and testamentary documents 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 _____.

SKIPPED

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

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 my sister who survive me with persons just named who survive me taking the share of non-survivors, then if anything remains

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 nominate and appoint Susan Lee Maxwell as Personal Representative including for me, my Will, and my estate.

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

In this Will no part left unfilled is a mistake including spaces in the residue clause.

The facts support and I want Minnesota state law to apply to this Will and my estate.

I order that my just debts, funeral and related expenses, and taxes be paid as soon after my death as practical but only those items my Personal Representative chooses to pay.

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

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

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

A gift of property no longer owned by me at death shall lapse and be of no effect including no payment of money shall be done in its place.

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

I am intentionally not providing by Will or other ways for some family, including I am not providing for some children of mine and also children of a deceased child of mine.

No earlier transfer reduces a Will gift unless I usually called it a loan or advancement.

Unless another meaning is shown use of plural includes the singular and vice versa, “they” can mean 1 person, and masculine, feminine, and neuter words are interchangeable.

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 debts, and c) no recipient of property who later loses it or who pays to keep it may require others or the estate to pay or do exoneration.

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 with no inventory, appraisal, or other action.

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

Any Personal Representative has sole discretion how to divide a gift to several persons, how to carry out a general gift, and how to do a gift to multiple persons.

Any Guardian of any type, Conservator, Custodian, or other person managing a minor’s property or money may use or invade the principal and sell property without court action.

If context permits the terms Personal Representative and Executor and Administrator are interchangeable, Guardian of Property and Conservator and Guardian of the Estate and Custodian are interchangeable, and residue and residuary are interchangeable. Any such person may stand in place and act and have all powers like the others.

The residue includes lapsed or failed gifts, insurance paid to the estate, digital assets, inheritances owed me, and all I had power of appointment or testamentary disposition over.

Any Personal Representative, Executor, Administrator, Guardian of any type like for a person or estate, Conservator, Custodian, and any other fiduciary under this Will or

otherwise shall qualify and serve without bond, surety, security, surety bond, or similar.

If evidence does not show it likely a person survived me by 120 hours (5 days) then for this Will and my estate they shall be deemed in all ways as having died before me.

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

Any Personal Representative may at any time transfer money or property of a minor under age 18 to a Custodian to serve under the Minnesota Uniform Transfers to Minors Act or any similar law, and may pick the person to be Custodian including themselves.

TESTATOR

I, Paul Samuel Maxwell, the Testator, sign my name to this instrument this 8th day of June, 20 22 and being first duly sworn, do hereby declare to all persons present and any undersigned authority, that I sign and execute this instrument as my Will and that I sign it willingly, that I execute it as my free and voluntary act for the purposes therein expressed, and that I am 18 years of age or older, of sound mind, and under no constraint or undue influence.

Paul Samuel Maxwell

Testator signature

WITNESSES

We, Eve Mable Rogers and Alice Ann Moon, the Witnesses, sign our names to this instrument, being first duly sworn, and do hereby declare to all persons present and any undersigned authority, that the Testator signs and executes this instrument as the Testator's Will and that the Testator signs it willingly, and that each of us, in the presence and hearing of the Testator, hereby signs this Will acting as witness to the Testator's signing, and that to the best of our knowledge the Testator is 18 years of age or older, of sound mind, and under no constraint or undue influence.

Eve Mable Rogers

Signature of Witness

14 2nd St., Duluth, Minnesota 55628

Address of Witness

Alice Ann Moon

Signature of Witness

35 Buffalo Road, Denver, Colorado 80101

Address of Witness

Sample Filled Out Form: Last Will and Testament (Guardian)
with Many Specific Gifts, Guardian Clause used, and Residue Given By Percentages

LAST WILL AND TESTAMENT

I, Paul Brian Baker, of Blue Earth County, Minnesota, do revoke all prior Wills and testamentary documents 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 and Ford Truck to Loretta Marsha Baxter.

I give buildings, land, and fixtures at 63 Wentworth Road, West St. Paul, Minnesota to Kenneth Alan Ford.

I give all real property and fixtures I own in Ramsey County in Minnesota to Amy Marie Fox and Pamela Sue Fox.

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

I give Irish jewelry and my wedding ring to Mary Natalie Swanson.

I give all jewelry not given above to Kay Baxter and Mary Baxter.

I give \$781.35 to Mary Natalie Swanson and Kevin Kilby.

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

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

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, and all such writings should be followed. But any such writing not found within 90 days of my death is canceled and has no effect. A gift in such a writing to a person who does not survive me is canceled and has no effect. This Will does not revoke any such writings that now exist.

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 Ruth May Baker who survive me with persons just named who survive me taking the share of non-survivors, then if anything remains

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

4. ADMINISTRATION. I nominate and appoint Ruth May Baker as Personal Representative including for me, my Will, and my estate.

5. GUARDIAN. I nominate, appoint, and name Amanda Sue Brubaker to be if needed Guardian of any minor child under age 18 of mine and to have care, authority, custody, and other control of them (including as Guardian of the Person). I nominate, appoint, and name this same person Conservator and to have control, care, and power over the property, money, and estate of any minor child (including as Guardian of the Estate).

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

In this Will no part left unfilled is a mistake including spaces in the residue clause.

The facts support and I want Minnesota state law to apply to this Will and my estate.

I order that my just debts, funeral and related expenses, and taxes be paid as soon after my death as practical but only those items my Personal Representative chooses to pay.

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

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

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

A gift of property no longer owned by me at death shall lapse and be of no effect including no payment of money shall be done in its place.

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

I am intentionally not providing by Will or other ways for some family, including I am not providing for some children of mine and also children of a deceased child of mine.

No earlier transfer reduces a Will gift unless I usually called it a loan or advancement.

Unless another meaning is shown use of plural includes the singular and vice versa, “they” can mean 1 person, and masculine, feminine, and neuter words are interchangeable.

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 with no inventory, appraisal, or other action.

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

If evidence does not show it likely a person survived me by 120 hours (5 days) then for this Will and my estate they shall be deemed in all ways as having died before me.

Any Personal Representative may at any time transfer money or property of a minor under age 18 to a Custodian to serve under the Minnesota Uniform Transfers to Minors Act or any similar law, and may pick the person to be Custodian including themselves.

TESTATOR

I, Paul Brian Baker, the Testator, sign my name to this instrument this 30th day of December, 2021, and being first duly sworn, do hereby declare to all persons present and any undersigned authority, that I sign and execute this instrument as my Will and that I sign it willingly, that I execute it as my free and voluntary act for the purposes therein expressed, and that I am 18 years of age or older, of sound mind, and under no constraint or undue influence.

Paul Brian Baker

Signature of Testator

WITNESSES

We, Olivia Anna Paulson and Matthew John Paulson, the Witnesses, sign our names to this instrument, being first duly sworn, and do hereby declare to all persons present and any undersigned authority, that the Testator signs and executes this instrument as the Testator's Will and that the Testator signs it willingly, and that each of us, in the presence and hearing of the Testator, hereby signs this Will acting as witness to the Testator's signing, and that to the best of our knowledge the Testator is 18 years of age or older, of sound mind, and under no constraint or undue influence.

Olivia Anna Paulson

Signature of Witness

82 Gull Lake Road, Brainerd, MN 55123

Address of Witness

Matthew John Paulson

Signature of Witness

82 Gull Lake Road, Brainerd, MN 55123

Address of Witness

Sample Filled Out Form: Last Will and Testament (Standard)
with Will modified to have a 1 Part Residue Clause

LAST WILL AND TESTAMENT

I, John David Smith, of Olmsted County, Minnesota, do revoke all prior Wills and testamentary documents 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 \$200 to each of my nieces and nephews so about \$2,800 in total.

I give \$400 to Garner Food Shelf in Superior, Wisconsin.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

SKIPPED

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

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 Judy Paula Ford who survive me and to the lineal descendants per stirpes of a person just named who did not survive me.

4. ADMINISTRATION. I nominate and appoint Judy Paula Ford my sister as Personal Representative including for me, my Will, and my estate.

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

In this Will no part left unfilled is a mistake including spaces in the residue clause.

The facts support and I want Minnesota state law to apply to this Will and my estate.

I order that my just debts, funeral and related expenses, and taxes be paid as soon after my death as practical but only those items my Personal Representative chooses to pay.

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

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

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

A gift of property no longer owned by me at death shall lapse and be of no effect including no payment of money shall be done in its place.

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

I am intentionally not providing by Will or other ways for some family, including I am not providing for some children of mine and also children of a deceased child of mine.

No earlier transfer reduces a Will gift unless I usually called it a loan or advancement.

Unless another meaning is shown use of plural includes the singular and vice versa, “they” can mean 1 person, and masculine, feminine, and neuter words are interchangeable.

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 debts, and c) no recipient of property who later loses it or who pays to keep it may require others or the estate to pay or do exoneration.

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 with no inventory, appraisal, or other action.

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

Any Personal Representative has sole discretion how to divide a gift to several persons, how to carry out a general gift, and how to do a gift to multiple persons.

Any Guardian of any type, Conservator, Custodian, or other person managing a minor’s property or money may use or invade the principal and sell property without court action.

If context permits the terms Personal Representative and Executor and Administrator are interchangeable, Guardian of Property and Conservator and Guardian of the Estate and Custodian are interchangeable, and residue and residuary are interchangeable. Any such person may stand in place and act and have all powers like the others.

The residue includes lapsed or failed gifts, insurance paid to the estate, digital assets, inheritances owed me, and all I had power of appointment or testamentary disposition over.

Any Personal Representative, Executor, Administrator, Guardian of any type like for a person or estate, Conservator, Custodian, and any other fiduciary under this Will or

otherwise shall qualify and serve without bond, surety, security, surety bond, or similar.

If evidence does not show it likely a person survived me by 120 hours (5 days) then for this Will and my estate they shall be deemed in all ways as having died before me.

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

Any Personal Representative may at any time transfer money or property of a minor under age 18 to a Custodian to serve under the Minnesota Uniform Transfers to Minors Act or any similar law, and may pick the person to be Custodian including themselves.

TESTATOR

I, John David Smith, the Testator, sign my name to this instrument this 24th day of June, 20 21, and being first duly sworn, do hereby declare to all persons present and any undersigned authority, that I sign and execute this instrument as my Will and that I sign it willingly, that I execute it as my free and voluntary act for the purposes therein expressed, and that I am 18 years of age or older, of sound mind, and under no constraint or undue influence.

John David Smith

Signature of Testator

WITNESSES

We, Mark Elliot Potter and Ann Paula Blom, the Witnesses, sign our names to this instrument, being first duly sworn, and do hereby declare to all persons present and any undersigned authority, that the Testator signs and executes this instrument as the Testator's Will and that the Testator signs it willingly, and that each of us, in the presence and hearing of the Testator, hereby signs this Will acting as witness to the Testator's signing, and that to the best of our knowledge the Testator is 18 years of age or older, of sound mind, and under no constraint or undue influence.

Mark Elliot Potter

Signature of Witness

Mark Elliot Potter, 2 Spruce St, Sherwood, MN 55808

Address of Witness

Ann Paula Blom

Signature of Witness

Ann Paula Blom, 70 Rocky Road, Clarksville, Minnesota 55241

Address of Witness

Sample Filled Out Form: Self-Proving Affidavit

SELF-PROVING AFFIDAVIT

(Minn. Stat. § 524.2-504)

State of Minnesota

County of Olmsted County

We, John David Smith, Mark Elliot Potter,
and Ann Paula Blom, the Testator and the Witnesses, respectively,
whose names are signed to the attached or foregoing instrument, being first duly sworn,
do hereby declare to the undersigned authority that the Testator signed and executed the
instrument as the Testator's Will and that the Testator had signed willingly (or willingly
directed another to sign for the Testator), and that the Testator executed it as the
Testator's free and voluntary act for the purposes therein expressed, and each of the
Witnesses, in the presence and hearing of the Testator, signed the Will acting as witness
and that to the best of the Witness' knowledge the Testator was at the time 18 years of age
or older, of sound mind, and under no constraint or undue influence.

John David Smith

Testator

Mark Elliot Potter

Witness

Ann Paula Blom

Witness

Subscribed, sworn to, and acknowledged in my presence by John David Smith
the Testator, and subscribed and sworn to in my presence by Mark Elliot Potter and
Ann Paula Blom, Witnesses, this 24th day of June, 2021.



(Signed) Ashley T. Ringgold

(Official capacity of officer)

Sample Filled Out Form: Tangible Personal Property List

TANGIBLE PERSONAL PROPERTY LIST

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

I may do many pages of these writings which should all be seen as one document. If there are conflicts among such writings the provisions of the more recent writing will revoke the inconsistent provisions of a prior writing.

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 maid at Hart Hotel
oak lamp kept on porch	to	Mary Kay Poppler
sewing machines	to	Mary Kay Poppler
rocking chair bought in Oregon	to	Don Winkler boat mechanic
all fishing poles and fishing nets	to	Joe "Fish" Hoss, fishing pal
hats at cabin	to	Ken Baker
all clothing except hats at cabin	to	Melissa and Wendy Smith
	to	
	to	

DATE: 8-15-2022

SIGNED: John David Smith