

**DAVENPORT'S
VERMONT WILLS
AND
ESTATE PLANNING
LEGAL FORMS**

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

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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 Vermont 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 help control things like this later is usually called “Estate Planning”. People have a right to control these matters so judges, doctors, and other people mostly 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 8 ready to use Vermont legal forms (but most 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 later gets money and property, who is Executor, and if easier legal options can be used.

Form 2. Will (Guardian) – Will with part added to name a Guardian to care for a minor child under 18 if needed (like if both parents later aren't available) and also if needed manage a child's money and property.

Form 3. Self-Proving Affidavit – form often done with a Will to later help show it was signed correctly.

HEALTH CARE FORMS

Form 4. Advance Directive For Health Care – lets a person name someone as Agent to control health care if the person is ever incapacitated, give general health care instructions, handle organ donation and funeral issues, and give instructions on “Living Will” issues about later stopping particular care if certain serious health situations arise (like having a terminal condition or being left permanently unconscious).

Form 5. Clinician Orders For DNR/CPR & Other Life Sustaining Treatment – does serious act of saying to paramedics, doctors, and others that immediately from now on do not try health care which is indicated in the form like C.P.R. or tube feeding.

GIVING POWER FORMS

Form 6. Statutory Form Power Of Attorney – lets power over money, property, and more be shared with a very trusted person so they can do things, like use accounts, pay bills, get records, and sell items.

Form 7. Power Of Attorney For Minor Child – lets a parent share power with a person over a minor child under age 18 for the person to use if needed including health care and school issues.

Form 8. Designation Of Agent For After Death Arrangements – lets a person give instructions and if wanted name someone to control issues with their funeral, burial, cremation, and similar matters.

VERMONT LAW ON ESTATE PLANNING COVERS MOST PEOPLE HERE

This book is only for Vermont 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 for a moment has no clear plans to leave. Later plans to move don't matter till people actually move. Note, people can stay under their previous state's Estate Planning laws after they move from it if people have some plans to leave any new state eventually. For example, people who move to a new state for months or more for travel, school, work projects, or the military often can keep legal ties to their old state. Immigrants here of any kind can do Estate Planning here. For health care people often do legal documents to match the state a hospital or other health facility is in.

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

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

THIS BOOK COVERS MAJOR LEGAL IDEAS AND SHOULD SUIT MOST PEOPLE

This book covers the big U.S. legal ideas on Estate Planning and major ways Vermont law is a bit different. This book can't cover all legal issues but should suit most people without some strange situations or wishes. Strange situations or wishes that may need research or a lawyer include: a) strange gift wishes for property and money, b) wealth over \$5 million, c) big medical concerns like extreme age, d) property or money going to a person with a disability or special needs, and e) wish to move or hide assets 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 cheap 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 most standard forms.

ESTATE PLANNING OFTEN IS NOT VITAL AND WORTH SPENDING MUCH ON

Despite what many people think Estate Planning often does not greatly change the costs, taxes, delays, and work involved in these areas, so it often is not vital and worth spending much money and energy on. Benefits seem low for young people even if they're parents since only 4% of people die by age 50, and only about 0.13% of children under 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 life insurance.

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 handwriting or typing. After a form is done usually people try to keep the original and hand out copies. Some people have everyone sign multiple copies to have multiple copies with ink signatures.

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

Forms must be properly filled in though often parts can be left blank. Except for signatures most parts can be filled in by someone not doing the form with good handwriting or typing. After a form is done usually people try to keep the original and hand out copies. Some people have everyone sign multiple copies to have multiple copies with ink signatures. To be valid some documents need to be “witnessed”, which is someone watching a person 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 uses an ink stamp and signs. Notaries (also called a “notary public”) are at some banks, brokers, insurance agents, courts, law offices, libraries, and mail-cop 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. In a form the term “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.
- Vermont law unlike some states does not let a short written list or memo be used to add gifts to a Will.
- Though separate forms exist usually organ donation in 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, VERMONT, OR OTHER TAX IS USUALLY OWED UPON A DEATH

Usually no or little tax is owed as a result of a death, including estate, inheritance, or death taxes.

The Federal Estate And Gift Tax is the only tax that may be owed due to a death at the Federal level, and it only starts when a tax credit is used up that covers \$13.61 million a person in 2024 and later.

Vermont does have an estate tax that may be owed if a Vermont resident dies, but it only applies when a tax credit is used up that covers \$5,000,000 in 2024 and later. Above \$5,000,000 a tax of 16% may be due on amounts above this level. Vermont has no separate inheritance tax.

A person’s family or Executor may have to file normal income tax returns to cover the partial year a decedent had 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 Will is done a person is described as being “intestate”.

■ 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 to handle and do things after someone’s death is usually called an “Executor”, but if a judge has to pick someone they are called an “Administrator”. The term “Personal Representative” and “Estate Fiduciary” covers both these terms and is sometimes used in Vermont for a person doing this job.

■ 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 “Vermont Statutes Annotated”. Annotated means the laws appear in books with notes. A law is called a “statute” or “section” shown by a “§” or “s” mark. Vermont law has a few dozen “titles”, and when citing a law the title number comes first. A Vermont law can be cited in many ways, like: 14 V.S.A. § 11, 14 V.S. 11, and 14 Vt. St. 11. A legal form written in state law for people to use is called a “statutory form”.

“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 somehow legally automatically go to new owners. An estate is also a temporary entity run by an Executor to do things after a death (it’s like a small corporation).

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 Hu”.

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 the Trust papers say. 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 property and money will then be left to follow a Will.

“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 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 “TESTATOR” CONTROL THINGS AFTER 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”. 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).

A WILL USUALLY MUST BE SIGNED WITH 2 WITNESSES

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

Under Vermont law a document to be a Will usually must show it’s a Will by its words, and the person doing it must sign it in front of at least 2 persons acting as witnesses who sign too. A Will spoken on a video or audio recording with no writing usually has no legal effect at all. Some states let witnesses be skipped for a Will that’s handwritten but Vermont does not.

WITNESSES SHOULD AT LEAST AGE 18 AND NOT GETTING GIFTS IN THE WILL

A person to witness a Will must be at least age 18. It is better but not required that witnesses not be extremely old, not live far away, and not be named in the Will as Executor, Guardian, or a similar job. Under Vermont law a Will is still valid if a witness or their spouse are getting Will gifts, but such Will gifts to a witness or their spouse later won’t be carried out unless there are 2 other sufficient witnesses to the Will. To avoid these issues usually witnesses or their spouse are not named to get things in a Will. Often used as witnesses are friends, neighbors, workers at a business, strangers, and sometimes family.

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

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

USUALLY AT START OF WILL A PERSON NAMES ANY SPOUSE AND CHILDREN

Importantly, many Wills including this book’s Will forms start with a place for a Testator to name any current living spouse and living children of theirs. Natural or adopted child should be written here, including usually any such children born outside marriage. A person without these people can skip this or put “none”. Under state law not doing this may invalidate the Will by indicating a person lacks sufficient mental ability or memory, or may let a spouse or child not listed ask a judge give them a share or all of the estate by claiming a Testator forgot them. After listing a person in a Will a Testator may be legally free to give them nothing.

CANCELING OLD WILLS IS USUALLY NOT A PROBLEM

A new Will usually quickly says old Wills are “revoked” to cancel them, and this book’s Will forms say this. A few people revoke an old Will by writing “void” or “canceled” or “X” on it, preferably with a witness to this. Usually crossing out just part of a Will has no effect and revoking a Will doesn’t bring back an earlier Will.

MOST WILLS SAY 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 writing a Will usually doesn’t want this since the persons Testator names are trusted and then later needing a bond uses up estate funds.

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

People should keep a Will so it can be found within days of a death, like in a desk, drawer, safe, or less often a safe deposit box. It can be given to a person to hold. It may help to tell others how to find or get a Will. A few person during life deposit a Will at the local Probate Court for safekeeping though this is fairly rare.

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. State law gives Executors many, many helpful legal powers to do things. If a Will fails to name an Executor a judge picks someone, but family may disagree on who to suggest. The terms “Personal Representative” or “Estate Fiduciary” are often used instead of the term Executor, but these all mostly mean the same thing. Will gifts can go to an Executor.

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

An Executor can ask to be paid for their work from estate funds. Pay for an Executor is what a judge later thinks is reasonable and Vermont unlike some states does not pay an Executor a percentage of the estate. For example, a judge may find an Executor showed they spent 5 hours a week over 40 weeks managing an estate of \$500,000 and that \$30 an hour is fair, so pay is \$6,000. But some Testators don’t want pay for the Executor so add a Will line saying to not pay them. In reality most Executors later skip asking for pay to not owe income tax and leave more to carry out Will gifts. Expenses an Executor has like insurance, repairs, mortgages, utilities, funeral, attorneys, and probate costs are usually paid for with estate money or property. Any lawyer an Executor hires usually is paid an hourly or fixed sum they and the Executor put in a contract.

EXECUTOR IS PERSON AT LEAST 18 AND SECOND PERSON RARELY NEEDED

A person to be Executor must be at least age 18 and usually have no bad criminal record like a felony unless a judge later allows it. Executors needn’t live in the state but it makes work easier, and non-residents may face some extra legal work. Naming 2 people to both be Executor is rare due to the risk of delay or arguments and since any 1 person named should be trusted. People can name a 2nd person to be Executor if the 1st person isn’t available but most skip this because it’s rarely needed and a judge can name a person. To add a fallback Executor a Will can say: “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.

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

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

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

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

CONDITIONS ON WILL GIFTS ARE RARE DUE TO POSSIBLE PROBLEMS

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

PEOPLE CAN ADD AN “ALTERNATE BENEFICIARY” LIKE FOR SPECIAL ITEMS

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

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 the Residue Clause.

CAN SAY IF PERSON IN GIFT DIES THEN IT GOES TO “LINEAL DESCENDANTS”

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

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

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”.

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 about 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 \$80 in total.”

VERMONT LAW DOES NOT LET A “LIST” OR “MEMO” ADD GIFTS TO A WILL

Vermont law unlike many states does not officially let a “List” or “Memo” be done outside a Will to add gifts to a Will. Despite this many people do a list or memo or put notes on items and trust their family to follow it (see next paragraph).

AFTER A DEATH FAMILIES OFTEN LET PEOPLE TAKE ITEMS UNOFFICIALLY

Many families unofficially let people take items in ways a dead person mentioned, put on a note or stickers, or would want, and this is usually fine. If anyone objects a judge usually has the Will and state law be followed exactly, but later people can voluntarily retransfer items to do what the deceased person wanted.

LATER DIVORCE OR MURDER CANCELS WILL GIFTS

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

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:

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

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

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

PEOPLE CAN PUT SAME THING IN PARTS, OR SKIP PART, OR USE PERCENTAGE

Some people put the same 1 person in both parts of a 2 part Residue Clause to better ensure that 1 person or if they later die their descendants gets things. Or a person with no spouse often skips and leaves blank the Residue Clause 1st part and in the 2nd part puts their children (including any who died who had a child), to make clear all family branches get an equal share. See *Appendix*. Often many people use percentages in a Residue Clause like to give a large percentage to a child and give a small percentage to another person.

SOME PEOPLE CHANGE A RESIDUE CLAUSE TO HAVE 1 PART

Some people change a Residue Clause to have just 1 part since this can gift more equally and be easier to understand. See example in *Appendix*. For example a Residue Clause can be made to say:

“The rest, residue, and remainder of my estate, and anything else, I give to _____ who survive me and if any of those just named do not survive me their part goes to their lineal descendants per stirpes.”

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 Ed 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 \$80 to The Salvation Army, "I give \$10 to Rutland County Library, VT", and "I give \$5 to Hill Church, Rex, Texas". People often phone to get a charity's name.

PUTTING DESCRIPTIONS OF ITEMS IN WILL GIFTS IS FAIRLY EASY

Describing items in gifts is easy since people rarely own similar items. 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 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 Po items in safe and desk" judges might not follow, but "I give Ed Po hats in attic" likely is OK.

DESCRIBING REAL PROPERTY IS HARD SO MANY USE RESIDUE OR TITLE

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

Gifting real property other ways is harder though 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 describe 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 fully given by something like: "I give 21 Main Street, Burlington, Vermont, 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 Essex County, Vermont to Ann Ivy Hill " or "I give all real property and fixtures in any place to Paul Ian Rex".

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 copy 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" in a subdivision 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.

MOST STATES AND WILLS SAY PEOPLE TO GET GIFTS MUST SURVIVE 5 DAYS

Helpfully laws in most states and all this book's Will forms say if a person dies within 5 days (120 hours) or simultaneously with a Testator, then they are legally seen as dying before Testator. This skips need to prove when people died (like if people die in 1 accident), and avoids a Will gift or the right to this legally transferring to someone who then dies within days (so an item has to go through multiple probate proceedings).

MOST WILLS SAY FAMILY MAY LATER DO "INFORMAL PROBATE"

Most Wills 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 is done in well under 1 year.

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.

MOST WILLS HAVE A "MISCELLANEOUS" PART WITH HELPFUL LANGUAGE

Most Wills have a "Miscellaneous" page with paragraphs of legal language to avoid some legal problems. This can help if later legal problems occur. A person doing a Will need not understand these paragraphs.

INTESTATE LAW CONTROLS THINGS NOT COVERED BY A WILL

"INTESTATE LAW" CONTROLS THINGS NOT HANDLED BY A WILL OR SIMILAR

Vermont "intestate law" which starts at 14 V.S.A. § 311 says where property and money goes if a person dies with no valid Will or if anything is left after a Will is followed. In most states if intestate law applies then things usually go upon a death in order to 1) any surviving spouse of decedent, 2) any surviving children of decedent (if decedent left both a spouse and also children they usually split things unless the spouse is a parent of all surviving children), 3) any surviving parents of decedent, 4) any surviving brothers or sisters of decedent, 5) more distant family of decedent, and then 6) to the state of Vermont (it "escheats" to the state).

Vermont intestate law is a bit different and people who are curious can look up the full intestate law. Note, if a family member has died then their children often legally get their intestate share in their place. Some laws like homestead laws may also affect what and how much goes to people.

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

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

If there is a spouse often a person does small gifts to friends and family, then uses the Residue Clause of the Will to gift all remaining to the spouse, and then names a few fallback persons in the Residue Clause.

If there is no spouse and no children often a person does a few small gifts, and then names some family or friends in the Residue Clause to get everything remaining.

A parent with young children if married to the other parent often does small gifts to friends and family, then in the Residue Clause gives mostly to a spouse, and then names children as fallbacks in the Residue Clause.

A parent with young children if not married or close to the other parent often does small gifts to friends and family, and then uses the Residue Clause to gift all remaining to their children.

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 a lot of debts any creditors 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 guaranteed or co-signed for them.

"FAMILY RIGHTS" OR OTHER THINGS MAY BE USED TO GET FAMILY THINGS

Most states have "family rights" a decedent's surviving spouse can claim, or if there's no spouse then decedent's minor children under age 18 can claim, and this helpfully may let them get some things before most debts of decedent are paid and even before Will and certain other transfers occur.

First, a surviving spouse or young children usually can use the "Exempt Property" right to get about \$20,000 of certain kinds of property of decedent, such as decedent's clothing, papers and photos, and heirlooms.

Second, a surviving spouse or young children usually can use the "Family Allowance" right to get money to live on 1 year or so, and often they can get from decedent's money and property a sum equal to the decedent's post-tax salary. Vermont also has a law saying a judge can put in an account a part of decedent's money and property that given all factors seems needed to support decedent's young children till age 18.

Third, a spouse or children often can use the "Homestead" right to stay in the family home (see next page).

Obviously if a spouse or children use these rights this leaves less property and money of a decedent to carry out Will gifts or other transfers so may interfere with these. So that family don't bother to use family rights often a person gives mostly to any spouse or young children (like over 50% and any family house).

Note, Vermont law mostly has these family rights and people who are curious can do more 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 funds on paying these usually big debts and leaves more estate resources to carry out Will gifts and other transfers. All this book's Will forms say don't usually pay off secured debts. But if a Testator really 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 after a death let new owners keep paying monthly any secured debt like a mortgage or lien on property they got from the decedent.

HOMESTEAD ISSUES

“HOMESTEAD” AND OTHER LAWS MAY HELP A SPOUSE OR YOUNG CHILDREN

A house and nearby land a person owns and lives at is usually called the “homestead”. Many states have a “homestead law” and related laws so a married person usually legally can’t sell or by Will gift give away a homestead they own unless a spouse signs to consent. Also, the decedent’s spouse for their life usually has a right to clear live in decedent’s homestead (in many states decedent’s children also can stay till age 18), and in some states they even get ownership. Last, legally a homestead occupied by family is mostly safe from acts of decedent’s creditors like foreclosure unless equity is big (like over \$200,000) or creditors have a mortgage. Obviously, if family use homestead and related laws this may block or delay someone else not the spouse or children getting decedent’s homestead. Due to homestead and related laws to avoid problems usually a person gives a family house by Will or other way to any spouse or small children. Note, Vermont mostly has all these homestead and related laws, and people who are curious can do more research.

MARRIAGE ISSUES

MOST STATES USE “SEPARATE PROPERTY LAW” FOR SPOUSES

Vermont and most states use the “Separate Property Law” system that says any married person mostly owns their money and property separately and not jointly with a spouse. Due to this a spouse is mostly free to sell during life or gift by Will money or property they own separately and not involve their spouse. But joint ownership by 2 spouses so both own a thing and not separate ownership can arise in many ways, like by agreement, paying half a purchase price, a gift was to both spouses, or if joint paperwork is done. Also many married people do paperwork so a house on 1 spouse’s death automatically goes to the other.

“COMMUNITY PROPERTY” LAW APPLIES IN OTHER STATES FOR SPOUSES

There are 9 states mostly in West that use “Community Property” law for spouses (Arizona, California, Louisiana, Idaho, Nevada, New Mexico, Texas, Washington, and Wisconsin). This law says property or money is owned 50/50 by spouses as Community Property if it comes from mental or physical work while there and married (like wages or salary, managing a business, or active trading of something) or if it was bought or improved with other Community Property. People moving from these state may face some issues.

SPOUSE CAN CLAIM A 50% “ELECTIVE SHARE” INSTEAD OF FOLLOWING WILL

Laws in many states say a spouse if unhappy with a Will can choose (elect) an “Elective Share” of a dead spouse’s property and money rather than take what a Will gives them. State law does this for a spouse for fairness, so a spouse has money to live on, and so early divorce isn’t the only way to feel financially safe. The Elective Share in Vermont for a spouse is normally 1/2 of all of the decedent’s money and property. The Elective Share sometimes can cover things a decedent gave away recently and certain other property. Obviously a spouse using the Elective Share to get half or so of a decedent’s things may take so much it interferes with other transfers. To avoid a spouse wanting to use the Elective Share most married people give over 1/2 their things to any spouse (including any family house). Note, Vermont does have an Elective Share law and people who are curious can do more research.

CHILD ISSUES

WILL CAN NAME “CUSTODIAL GUARDIAN” TO CARE FOR YOUNG CHILD

If a parent dies with a child under 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 “Custodial Guardian” to give this care for a child. Many people call this a “Guardian of the Person”.

WILL CAN NAME “FINANCIAL GUARDIAN” TO HANDLE CHILD'S PROPERTY

Since a child till age 18 can't legally manage money or property a Will often names a person to act as “Financial Guardian” to manage the child's property and money. Many people call this a “Conservator” or a “Guardian of Property and Estate”. This person will decide each year how to use this property and money for a child's costs (like school, living, and health care) till often age 18 when all left goes to a child. Judges often hold a yearly hearing to review spending. A person paying things for a child (including a Financial Guardian) can ask to be paid back from a child's money and property. And as a nice 2nd option most Wills also say an Executor may let a “Custodian” they pick manage a young child's property or money. This is allowed by the “Uniform Transfers To Minors Act” law which lets a Custodian do things with less work, costs, and delay.

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

This book's Will forms and most people name the same 1 person to be Custodial Guardian caring for a child and also be Financial Guardian caring for a child's money and property. But people can change a Will to name different people for the 2 positions. However naming different people 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 over spending between Guardians.

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

A person to be a Guardian of any type must be age 18 or older. They must not have a bad criminal record like a felony unless a judge later agrees they can serve. A Guardian need not reside in the state but being local can make work easier. The choice for a Guardian of any kind 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 HEALTH CARE FORMS

SOME BASIC IDEAS HELP PEOPLE UNDERSTAND HEALTH CARE FORMS

Some ideas help people understand health care forms.

- By law people control their health care unless “incapacitated” by insufficient ability to a) communicate verbally or by notes, b) be rational, or c) be conscious. Unless incapacitated people just tell doctors what health care they want. In actuality most people keep control of health care till death or till no big treatment options remain, but people may worry they may be incapacitated a long time so do some health care forms. Forms about control of health care if people are later incapacitated are often called “Advanced Directives”.
- 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”.
- 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 seems more likely to matter (like 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: WILL (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 child under age 18.

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, "List Of Spouse And Children", lets a person write the names of any living spouse and children they have, or if none maybe write "none". This helps show a Testator has enough mental ability and memory to do a Will. Not listing a living spouse or child here can let an omitted person ask a judge to give them a share or all of a Testator's property and money by claiming they were accidentally forgotten.

Paragraph 2, "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 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", has a space to name a person to be Executor to handle legal and other matters after a person's death (some people use the term "Personal Representative" or similar for this).

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

Last is paragraphs for Testator to date, sign, and print their name, and for the 2 witnesses to sign, date, and print their name and addresses. This part has some legal phrases which people need not understand.

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 any living persons named here in this 1st space take their 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 the Will. Testator and witnesses should be in the same room and see all others sign.

LAST WILL AND TESTAMENT

I, _____, of _____, Vermont, 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. LIST OF SPOUSE AND CHILDREN. To help show I am mentally competent and have sufficient memory to make a Will I wish to list any living spouse and living children I now have. I currently have the following living spouse and living children:

_____.

2. 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 _____.

I give _____ to _____.

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

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

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

4. ADMINISTRATION. I name, nominate, and appoint _____
as Executor including for me, my Will, and my estate.

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

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

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

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 their 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 specifically not providing for 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 an Executor 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 Executor may act independently with no supervision of any court, including independent administration, and with no inventory, appraisal, or other action.

I give any Executor 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 Executor 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.

No lawyer hired should be paid based on a percentage of estate property or similar.

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 Executor and Estate Fiduciary and Personal Representative and Administrator are interchangeable, Financial Guardian and Guardian of the Estate and Conservator and Guardian of Property and Custodian are interchangeable, and residue and residuary are interchangeable. Any such person may stand in place and act 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 Executor, Personal Representative, 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 Executor may at any time transfer money or property of a minor under age 18 to a Custodian to serve under the Vermont Uniform Transfers to Minors Act or a similar law anywhere, and they may pick the Custodian including themselves.

TESTATOR

IN WITNESS WHEREOF, I, the Testator, have signed this Will on the _____ day of _____, 20____.

Testator's Signature

Testator's Printed Name

WITNESSES

The foregoing instrument was signed by the Testator in our presence and declared by the Testator to be the Testator's Will, and we, the undersigned Witnesses, sign our names hereunto acting as witnesses at the request and in the presence of the Testator, and in the presence of each other on the _____ day of _____, 20____.

Witness Signature

Printed Name and Residence of Witness

Witness Signature

Printed Name and Residence of Witness

CHAPTER 8

FORM 2: WILL (GUARDIAN)

FORM 2 IS BASIC WILL WITH GUARDIAN CLAUSE FOR YOUNG CHILD

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

FORM IS A WILL WITH SEVERAL PARTS 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, "List Of Spouse And Children", lets a person write the names of any living spouse and children they have, or if none maybe write "none". This helps show a Testator has enough mental ability and memory to do a Will. Not listing a living spouse or child here can let an omitted person ask a judge to give them a share or all of a Testator's property and money by claiming they were accidentally forgotten.

Paragraph 2, "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 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", has a space to name a person to be Executor to handle legal and other matters after a person's death (some people use the term "Personal Representative" or similar for this).

Paragraph 5, "Guardian", names a person to if needed be Custodial Guardian to care for minor children, and also if needed to be Financial Guardian to 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 Testator to date, sign, and print their name, and for the 2 witnesses to sign, date, and print their name and addresses. This part has some legal phrases which people need not understand.

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 any living persons named here in this 1st space take their 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 the Will. Testator and witnesses should be in the same room and see all others sign.

LAST WILL AND TESTAMENT

I, _____, of _____, Vermont, 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. LIST OF SPOUSE AND CHILDREN. To help show I am mentally competent and have sufficient memory to make a Will I wish to list any living spouse and living children I now have. I currently have the following living spouse and living children:

2. 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 _____.

I give _____ to _____.

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

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

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

4. ADMINISTRATION. I name, nominate, and appoint _____
as Executor including for me, my Will, and my estate.

5. GUARDIAN. I name, nominate, and appoint _____
to be if needed the Custodial Guardian of any minor child of mine and to have care,
authority, custody, and other control of them (including as Guardian of the Person).
I also name this same person to be Financial Guardian of any minor child of mine or
other minor person and to have care, control, and power over all their property, money,
and estate (including as Guardian of the Estate and, also, Guardian of Property).

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

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

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

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 their 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
specifically not providing for 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 an Executor 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 Executor may act independently with no supervision of any court, including
independent administration, and with no inventory, appraisal, or other action.

I give any Executor 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 Executor 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.

No lawyer hired should be paid based on a percentage of estate property or similar.

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 Executor and Estate Fiduciary and Personal Representative and Administrator are interchangeable, Financial Guardian and Guardian of the Estate and Conservator and Guardian of Property and Custodian are interchangeable, and residue and residuary are interchangeable. Any such person may stand in place and act 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 Executor, Personal Representative, 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 Executor may at any time transfer money or property of a minor under age 18 to a Custodian to serve under the Vermont Uniform Transfers to Minors Act or a similar law anywhere, and they may pick the Custodian including themselves.

TESTATOR

IN WITNESS WHEREOF, I, the Testator, have signed this Will on the _____ day of _____, 20____.

Testator's Signature

Testator's Printed Name

WITNESSES

The foregoing instrument was signed by the Testator in our presence and declared by the Testator to be the Testator's Will, and we, the undersigned Witnesses, sign our names hereunto acting as witnesses at the request and in the presence of the Testator, and in the presence of each other on the _____ day of _____, 20____.

Witness Signature

Printed Name and Residence of Witness

Witness Signature

Printed Name and Residence of Witness

CHAPTER 9

FORM 3: SELF-PROVING AFFIDAVIT

FORM IS SOMETIMES DONE WITH WILL TO REDUCE LATER LEGAL WORK

This form can be done after a Will is done to help with the work of using a Will after the Testator dies. This form must be done with a notary. This form is not required to have a valid Will and is often skipped. This book's form is the statutory form found in state law.

FORM HELPS TO LATER SHOW A WILL WAS PROPERLY SIGNED

This form can help when trying to use a Will after a death prove it was properly signed. If a Self-Proving Affidavit form isn't done more work may be needed later, like later the witnesses to the Will signing must testify in probate court or submit a writing (if these people aren't available usually other proof can be used). Also, if this form is not done there is slightly more risk a Will won't be followed later by a judge or others. Of people doing Wills about half skip doing a Self-Proving Affidavit mostly due to the hassle of using a notary each time a Will is done, and since it mostly just saves later work of people who are probably happy to do work to get things using a Will. Some states have no Self-Proving Affidavit for Wills and manage fine.

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

To complete the Self-Proving Affidavit form a person who is notary (also called "notary public") must see the form signed by the Testator and the 2 witnesses to the Will signing, and then the notary signs and notarizes it. The form is almost always done a few minutes after a Will is signed. This form may not be done before the Will it supports is done. Any notary should know how to fill out and notarize this form. Once it is done the Self-Proving Affidavit is then usually stapled or paper-clipped to the Will it supports.

SELF-PROVING AFFIDAVIT

We, the undersigned, being the Testator and Witnesses to the attached Will, first being duly sworn, hereby state and acknowledge the following:

1. The attached or foregoing instrument is the Testator's Will dated on the _____ day of _____, 20____.

2. The Testator signed the instrument as Testator's Will in the presence of 2 witnesses.

3. The signing was the Testator's free and voluntary act for the purposes expressed in the Will.

4. Each Witness signed at the request of the Testator, in the Testator's presence, and in the presence of the other Witness.

5. To the best knowledge of each Witness at the time of the signing, the Testator was at least 18 years of age or emancipated by court order and was of sound mind and under no constraint or undue influence.

IN WITNESS WHEREOF, we have hereunto set our hands at _____, Vermont, this _____ day of _____, 20____.

Testator's Signature

WITNESSES:

Witness Signature

Printed Name and Residence of Witness

Witness Signature

Printed Name and Residence of Witness

Notary

STATE OF VERMONT)
_____ COUNTY) ss.

The foregoing was signed and sworn to, or affirmed, by the aforementioned Witnesses and Testator at _____ in Vermont, this _____ day of _____, 20____.

Notary Signature: _____

Printed name: _____

My Commission expires: _____

Commission number: _____

CHAPTER 10

FORM 4: ADVANCE DIRECTIVE FOR HEALTH CARE

FORM CAN NAME HEALTH CARE AGENT AND GIVE INSTRUCTIONS

This form lets a person name someone to control health care and, also, give health care instructions. It also can cover what to do if a person is so ill that some people may stop most treatment, which people call “Living Will” issues. Sometimes people do these things in totally separate forms, like a “Health Care Power Of Attorney” and a “Living Will”. This book’s form is 1 of many forms suggested by the Vermont Department Of Health on its webpage and this particular form is by the Vermont Ethnic Network (a group that gets state aid). This is called their “Short Form” since it is shorter than other forms. This form is “durable” so it still is effective if a person is later incapacitated but power of the form ends at a person’s death.

IN FIRST PART AN AGENT FOR HEALTH CARE CAN BE NAMED

In the “Health Care Agent” part an Agent can be named to control health care if a person is incapacitated. The person giving power is the “Principal” and person getting power is the “Agent” or the “Attorney-In-Fact”. Often named Agent is a spouse, adult child, relative, or a friend, and naming someone can avoid need for later legal action. A 2nd person can be named to act if the 1st person doesn’t, but this is rarely needed and many skip this. Health care workers usually shouldn’t be the Agent. Usually a person writes the Agent has power when the person is no longer able to control things themselves (when they are incapacitated), but a person can say the Agent can act earlier which may let a sick person get rest while their Agent deals with doctors. A person always can override their Agent or fire their Agent by clearly saying this, like to their doctor.

IN SECOND PART SOME FEELINGS ABOUT HEALTH CARE CAN BE WRITTEN

The second part, “Health Care Goals And Spiritual Wishes”, lets a person say health care feelings for Agent and family to follow. But many people skip this since an Agent or family are trusted to wisely decide things, and if instructions aren’t totally clear it can cause big legal issues or long delays.

IN THIRD PART “LIVING WILL” ISSUES ON STOPPING CARE CAN BE COVERED

The third part, “Limitations On Treatment”, many people call the “Living Will” part of the form which can cover stopping treatment in situations where some people think more health care isn’t worth it. But many people skip this since it is stressful to do, rarely needed, and an Agent or family are trusted to decide things.

IN FOURTH PART ORGAN DONATION AND FUNERAL CAN BE COVERED

The fourth part, “Organ/Tissue Donation & Burial”, can cover organ donation and, also, give instructions and pick a person to handle funeral issues. Most people skip these things or cover them in other forms.

PERSON SIGNS FORM IN FRONT OF EITHER NOTARY OR 2 WITNESSES

The form is signed by a person in front of 2 witnesses who then sign, but witnesses can’t be close family members. If a person is already or being admitted to a hospital, nursing home, or residential care facility a staff member called an “explainer” must also sign. Once done this form is usually shown to any doctor or facility that may give care, and the Agent gets a copy. To cancel the form a person tells places and Agent. People can file the form in the “Advance Directive Registry” at the state capital or online, but most skip this since usually a doctor or place are shown the form directly and places may not bother to check the Registry.



Vermont Advance Directive for Health Care

YOUR NAME

DATE OF BIRTH

DATE

ADDRESS

CITY

STATE

ZIP

PART ONE: YOUR HEALTH CARE AGENT

Your health care agent can make health care decisions for you when you are unable or unwilling to make decisions for yourself. You should pick someone that you trust, who understands your wishes and *agrees* to act as your agent. Your health care provider may **NOT** be your agent unless they are a relative. Your agent may **NOT** be the owner, operator, employee or contractor of a residential care facility, health care facility or correctional facility where you reside at the time your advance directive is completed.

I appoint this person to be my health care **AGENT**:

AGENT NAME

EMAIL

ADDRESS

HOME PHONE

WORK PHONE

CELL PHONE

(If you appoint **CO-AGENTS**, list them on a separate sheet of paper)

If this agent is **unavailable**, unwilling or unable to act as my agent, I appoint this person as my **ALTERNATE AGENT**:

ALTERNATE
AGENT NAME

EMAIL

ADDRESS

HOME PHONE

WORK PHONE

CELL PHONE

Others who may be consulted about medical decisions on my behalf include:

Primary care provider (Physician, PA or Nurse Practitioner):

NAME

PHONE

ADDRESS

NAME

PHONE

ADDRESS

Those who should **NOT** be consulted include:

NAME

DOB

DATE

I want my Advance Directive to start:

☐ When I cannot make my own decisions

☐ Now

☐ When this happens:

PART TWO: HEALTH CARE GOALS AND SPIRITUAL WISHES

My overall health care goals include:

☐ I want to have my life sustained as long as possible by any medical means.

☐ I want treatment to sustain my life only if I will:

☐ be able to communicate with friends and family.

☐ be able to care for myself.

☐ live without incapacitating pain.

☐ be conscious and aware of my surroundings.

☐ I only want treatment directed toward my comfort.

Additional Goals, Wishes, or Beliefs I wish to express include:

People to notify if I have a life-threatening illness:

If I am dying it is important for me to be (check choice):

☐ At home

☐ In the hospital

☐ Other:

☐ No preference

My Spiritual Care Wishes include:

My Religion/Faith:

PLACE OF WORSHIP

PHONE

ADDRESS

The following items or music or readings would be a comfort to me:

NAME

DOB

DATE

PART THREE: LIMITATIONS OF TREATMENT

You can decide what kind of treatment you want or don't want if you become seriously ill or are dying. Regardless of the treatment limitations expressed, you have the right to have your pain and symptoms (nausea, fatigue, shortness of breath) managed. Unless treatment limitations are stated, the medical team is required and expected to do everything possible to save your life.

1. If my heart stops (choose one):

- ☐ I DO want CPR done to try to restart my heart. ☐ I DON'T want CPR done to try to restart my heart.

CPR means cardio (heart)-pulmonary (lung) resuscitation, including vigorous compressions of the chest, use of electrical stimulation, medications to support or restore heart function, and rescue breaths (forcing air into your lungs).

2. If I am unable to breathe on my own (choose one):

- ☐ I DO want a breathing machine without any time limit. ☐ I want to have a breathing machine for a short time to see if I will survive or get better. ☐ I DO NOT want a breathing machine for ANY length of time.

"Breathing machine" refers to a device that mechanically moves air into and out of your lungs such as a ventilator.

3. If I am unable to swallow enough food or water to stay alive (choose one):

- ☐ I DO want a feeding tube without any time limits ☐ I want to have a feeding tube for a short time to see if I will survive or get better. ☐ I DO NOT want a feeding tube for any length of time.

NOTE: If you are being treated in another state your agent may not automatically have the authority to withhold or withdraw a feeding tube. If you wish to have your agent decide about feeding tubes please check the box below.

- ☐ I authorize my agent to make decisions about feeding tubes.

4. If I am terminally ill or so ill that I am unlikely to get better (choose one):

- ☐ I DO want antibiotics or other medication to fight infection. ☐ I DON'T want antibiotics or other medication to fight infection.

If you have stated you DO NOT want CPR, a breathing machine, a feeding tube, or antibiotics under any circumstances, please discuss this with your doctor who can complete a DNR/COLST form to ensure you don't receive treatments you don't want, particularly in an emergency situation. A DNR/COLST order will be honored outside of the hospital setting.

Additional Limitations of Treatment I wish to include:

NAME

DOB

DATE

PART FOUR: ORGAN/TISSUE DONATION & BURIAL/DISPOSITION OF REMAINS**My wishes for organ & tissue donation** (check your choices):☐ I consent to donate the following organs & tissues:☐ Any needed organs☐ Any needed tissue (skin, bone, cornea)☐ I do not wish to donate the following organs and tissues:☐ I do not want to donate any organs or tissues☐ I want my health care agent to decide☐ I wish to donate my body to research or educational program(s). *(Note: you will have to make your own arrangements with a medical school or other program in advance.)***My Directions for Burial/Disposition of My Remains after I Die** (check & complete):☐ I have a Pre-Need Contract for Funeral Arrangements:

NAME

PHONE

ADDRESS

I want the following individuals to decide about my burial or disposition of my remains (check your choices):

☐ Agent ☐ Alternate Agent ☐ Family:

NAME

PHONE

ADDRESS

☐ Other:

NAME

PHONE

ADDRESS

Specific Wishes (check your choices):☐ I want a Wake/Viewing☐ I prefer a Burial — If possible at the following location: (cemetery, address, phone number)☐ I prefer Cremation — With my ashes kept or scattered as follows:☐ I want a Funeral Ceremony with a burial or cremation to follow☐ I prefer only a Graveside Ceremony☐ I prefer only a Memorial Ceremony with burial or cremation preceding☐ Other Details: (such as music, readings, Officiant)

NAME

DOB

DATE

PART FIVE: SIGNED DECLARATION OF WISHES

You must sign this before TWO adult witnesses. The following people may **not** sign as witnesses: your agent(s), spouse, parents, siblings, children or grandchildren.

I declare that this document reflects my health care wishes and that I am signing this Advance Directive of my own free will.

SIGNED

DATE

I affirm that the signer appeared to understand the nature of this advance directive and to be free from duress or undue influence at the time this was signed. *(Please sign and print)*

FIRST WITNESS
(PRINT NAME)

SIGNATURE

DATE

SECOND WITNESS
(PRINT NAME)

SIGNATURE

DATE

If the person signing this document is being admitted to or is a current patient in a **hospital**, one of the following must sign and affirm that they have explained the nature and effect of the advance directive and the patient appeared to understand and be free from duress or undue influence at the time of signing: *designated hospital explainer, ombudsman, mental health patient representative, recognized member of the clergy, Vermont attorney, or Probate Court designee.*

If the person signing this document is being admitted to or is a resident in a **nursing home or residential care facility**, one of the following must sign and affirm that they have explained the nature and effect of the advance directive and the resident appeared to understand and be free from duress or undue influence at the time of signing: *an ombudsman, recognized member of the clergy, Vermont attorney, Probate Court designee, designated hospital explainer, mental health patient representative, clinician not employed by the facility, or appropriately trained nursing home/residential care facility volunteer.*

The explainer as outlined above may also serve as one of the two required witnesses.

NAME

TITLE/POSITION

PHONE

ADDRESS

SIGNATURE

DATE

NAME

DOB

DATE

The following have a copy of my Advance Directive (please check):

☐ Vermont Advance Directive Registry Date registered:

☐ Health care agent

☐ Alternate health care agent

☐ Doctor/Provider(s):

☐ Hospital(s):

☐ Family Member(s): Please list:

NAME

ADDRESS

NAME

ADDRESS

NAME

ADDRESS

NAME

ADDRESS

NAME

ADDRESS

☐ Other:

NAME

ADDRESS

NAME

ADDRESS

NAME

ADDRESS

NAME

ADDRESS

NAME

ADDRESS

NAME

ADDRESS

CHAPTER 11

FORM 5: CLINICIAN ORDERS FOR DNR/CPR & OTHER LIFE SUSTAINING TREATMENT

FORM SAYS STARTING IMMEDIATELY DO NOT TRY SOME HEALTH CARE

This form (often called the “COLST” form) lets a person do the serious and vary rare step of saying starting immediately do not try any of the health care a person can select in the form such as C.P.R. The form is short and can be read fast (like by paramedics) and is often used by a person outside any facility, but it can be used inside places too. Some other states call this form the “Physicians Orders” form. This book’s form is a standard form issued by the state. The COLST form has mostly replaced the separate “Do-Not-Resuscitate” form which can still be used but just is on resuscitation. But a few doctors recommend the old form be used and people can get a DNR from their doctor.

FORM SAYS TO IMMEDIATELY NO LONGER TRY CERTAIN HEALTH CARE

In the form a person can say starting immediately certain medical care shouldn’t be tried if they are later incapacitated and health personnel are deciding what care to give. A doctor or similar person must co-sign the form and think it is proper. The main thing the form does is say don’t try ”resuscitation” to restart or help the heart or breathing, and this includes related things like not trying cardio-pulmonary resuscitation (C.P.R.), electric shocks to the heart, forced intubation, and machines to help breathing. There are other treatment options the form can say to not try, like IV fluids by needle, artificial feeding by tube, and antibiotics. Of course a person with capacity still thinking OK can override the form by verbally requesting care or just not showing the form to paramedics or others. If a person falls ill even if they have done this form they are still usually taken to get pain relief and comfort care. But this form is rarely done since these kinds of health situations often don’t occur, it can be stressful to decide this issue, and many people trust their family or Agent for health care to consider all factors and wisely say when to stop care.

FORM IS SIGNED BY A DOCTOR AND PERSON DOING THE FORM

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

PATIENT: _____ BIRTHDATE: _____
LAST NAME FIRST NAME MIDDLE INITIAL

SECTION A: Cardiopulmonary Resuscitation: Follow these orders when patient is unresponsive & has NO pulse

☐ **NO CPR: Do Not Attempt Resuscitation (DNR)**
(Allow Natural Death)

☐ **YES CPR: Attempt Resuscitation**, including chest compressions, intubation, mechanical ventilation, defibrillation and transfer to hospital.

Basis for DNR order: informed consent OR medical non-benefit (Choose one)

☐ **Informed Consent obtained from:**

Name of Person Giving Informed Consent (Can be Patient)

Relationship to Patient (Write "self" if Patient)
(agent, guardian or surrogate)

Signature (if available; not required)

☐ Verbal Consent

OR

☐ **This DNR order is written on the basis of medical non-benefit (futility). Required if no consent.**

I have determined that resuscitation would not prevent the imminent death of this patient should the patient experience cardiopulmonary arrest. Another clinician has also so determined:

Name of Other Clinician Making this Determination (Print here)

Signature of Other Clinician

Date

SECTION B: Intubation and Ventilation: Follow these orders in the event of respiratory distress & HAS a pulse

Instructions for Intubation and Ventilation: (Invasive: place a tube down the patients throat and connect a breathing machine)

Mark one circle → ☐ **NO**, do not intubate and ventilate (DO NOT check if you checked "YES CPR" in section A)

☐ **TRIAL COURSE**, of intubation and ventilation treatment

☐ **YES**, intubate and ventilate

SECTION C: Medical Intervention Guidelines

☐ **Focus on Sustaining Life.** 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.

☐ **Avoid Invasive Interventions.** 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. high flow, CPAP, BiPAP). *Transfer to hospital if indicated.* Generally avoid intensive level of care (e.g. ICU). 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.

Facility DNR Protocol Requirement (required for patients in health care or residential care facilities, skip if patient is not in a facility)

☐ This patient is in a health care facility or a residential care facility.

Name of Facility: _____

The requirements of the facility's DNR protocol have been met. _____ (Initial here if protocol requirements have been met.)

SIGNATURE OF CLINICIAN for section A, B & C (signature authorizes DNR identification)

Clinician (Print Name): _____ Signature: _____ Date _____

PATIENT: _____ BIRTHDATE: _____
LAST NAME FIRST NAME MIDDLE INITIAL

SECTION D: Orders For Other Life Sustaining Treatments

Artificially Administered Nutrition and Hydration

Nutrition (Mark one circle)	<input type="radio"/> NO, do not administer artificial nutrition	<input type="radio"/> TRIAL COURSE, of short-term artificial nutrition. No long term.	<input type="radio"/> YES, administer artificial nutrition	<input type="radio"/> Did not discuss
Hydration (Mark one circle)	<input type="radio"/> NO, do not administer artificial hydration	<input type="radio"/> TRIAL COURSE, of short-term artificial hydration	<input type="radio"/> YES, administer artificial hydration	<input type="radio"/> Did not discuss
Antibiotics (Mark one circle)	<input type="radio"/> NO, do not use antibiotics	<input type="radio"/> Determine use or limitation of antibiotics when infection occurs, with comfort as goal.	<input type="radio"/> YES, administer antibiotics (if indicated)	<input type="radio"/> Did not discuss

Other preferences (e.g. dying at home, awareness/level of consciousness, living independently, etc.) and treatment goals specific to the patient's medical condition and care needs (e.g. blood products, dialysis, etc.).

Informed Consent for orders for other life sustaining treatment (section D) has been obtained from:

_____ Name of Person Giving Informed Consent (Can be Patient)	_____ Relationship to Patient (Write "self" if Patient)	_____ Signature (if available; not required) <input type="checkbox"/> Verbal Consent
--	--	--

SIGNATURE OF CLINICIAN for section D

Clinician (Print Name): _____ Signature: _____ Date _____

SECTION E: Additional Information

<input type="radio"/> Health Care Agent/Advance Directive _____ Name of Health Care Agent(s) / phone	<input type="radio"/> Guardianship Order _____ Name of Guardian / phone	<input type="radio"/> Surrogate _____ Name of Surrogate / phone
--	---	---

Note: This section CANNOT be used to appoint the health care agent or guardian. Only check if there is existing documentation of medical decision-makers in an advance directive or court order for guardianship. Guardians require additional oversight for permission to consent (emergency exceptions apply).

☐ Patient enrolled in hospice: Name of Hospice Agency _____ Phone/Contact _____

SECTION F: REVIEWS

Date	Reviewer	Location	Outcome
			<input type="radio"/> No Change <input type="radio"/> New form completed <input type="radio"/> Form Voided

Instructions For Clinicians Completing This Form

Completing DNR/COLST: <ul style="list-style-type: none">Must be completed and signed by a health care clinician (MD, DO, APRN, or PA) based on patient's medical condition, goals and values.Verbal orders are acceptable with follow-up signature by the clinician in accordance with facility/agency policy.Photocopies and faxes of signed DNR/COLST order are legal and valid.By signing, clinician is certifying that they have consulted or made an attempt to consult with the patient, the patient's agent, guardian or surrogate.	Documenting Clinician's Verbal Order <ul style="list-style-type: none">The patient's nurse or social worker must print the clinician's name and write "Verbal Order" on the clinician signature line.The nurse or social worker documenting the verbal order must also sign and date the form.A duplicate DNR/COLST must be completed and sent to the clinician for an original signature.At the earliest convenience, the order with the original signature must be returned to the patient to replace the previously documented verbal order.
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**INSTRUCTIONS FOR CLINICIANS
COMPLETING VERMONT DNR/COLST FORM**

(DO NOT RESUSCITATE ORDER/CLINICIAN ORDERS FOR LIFE SUSTAINING TREATMENT)

Completing DNR/COLST

- The DNR/COLST form must be completed and signed by a health care clinician based on patient preferences and medical indications. A clinician is defined as a medical doctor, osteopathic physician, advance practice registered nurse or physician assistant. 18 V.S.A. § 9701(5).
 - A "clinician" also includes a duly licensed medical doctor, osteopathic physician, advanced practice registered nurse or nurse practitioner, or physician assistant who treated the patient outside Vermont and held a valid license to practice in the state in which the patient was located at the time the DNR/COLST was issued. (18 V.S.A. § 9708).
- Verbal orders are acceptable with follow-up signature by the clinician. See Documenting Clinician's Verbal Order (sections A & D) below.
- Photocopies and Faxes of signed COLST forms are legal and valid.
- Prior orders completed on previously approved Vermont DNR/COLST forms remain legal and valid and shall be honored.

Special requirements for completing the DNR section of COLST (18 V.S.A. §§9708, 9709)

- A DNR order may be written on the basis of either informed consent or futility. Indicate the basis for the order in Section A.
- An order based on informed consent must include the name of the patient, agent, guardian, or other individual giving informed consent.
- An order based on futility must include a certification by the clinician and a second clinician that resuscitation would not prevent the imminent death of the patient, should the patient experience cardiopulmonary arrest.
- If patient is in a health care facility, the clinician must certify that the requirements of the facility's DNR protocol as required by 18 V.S.A. § 9709 have been met.
- Clinician signature on this form serves as the issuance of a DNR Identification.
- Clinician signature certifies that the clinician has consulted or made an attempt to consult with the patient, and the patient's agent or guardian if there is an appointed agent or guardian.

Using DNR Order - Section A CPR/DNR - 18 V.S.A. § 9708(i) and (l)

- A DNR Order (Section A of the DNR/COLST form) only precludes efforts to resuscitate in the event of cardiopulmonary arrest and does not affect other therapeutic interventions that may be appropriate for the patient. (Sections B through D of the COLST Form address other interventions.)
- Health care professionals, health care facilities, and residential care facilities must honor a DNR order or a DNR Identification unless the professional or facility believes in good faith, after consultation with the patient, agent or guardian, where possible and appropriate:
 - the patient wishes to have the DNR/COLST order revoked; or
 - the patient with the DNR identification or order is not the individual for whom the DNR order was issued; and
 - documents the basis for the good faith belief in the patient's medical record.

Using COLST (Sections B through D)

- Any sections not completed indicate that the COLST order does not address that topic. It may be addressed in a patient's advance directive, or in other parts of the medical record.
- When comfort cannot be achieved in the current setting, the person, including someone with "comfort-focused treatment", may be transferred to a setting able to provide comfort.
- A patient with or without capacity, or another person authorized to provide consent, may revoke the COLST order at any time and request alternative treatment. Exceptions may apply. See, 18 V.S.A. § 9707(g) or 18 V.S.A. § 9707(h).
- Photocopies and faxes of signed DNR/COLST forms are legal and valid.

Documenting Clinician's Verbal Order (Sections A & D)

To document a clinician's verbal order for a DNR/COLST:

- The patient's nurse or social worker must print the clinician's name in **Section A for DNR** and/or **Section D for COLST** and write "Verbal Order" on the clinician signature line.
- The nurse or social worker documenting the verbal order must also sign and date the form.
- A duplicate DNR/COLST must be completed and sent to the clinician for an original signature.
- At the earliest convenience, the order with the original signature must be returned to the patient to replace the previously documented verbal order.

Reviewing DNR/COLST

This form should be reviewed periodically and a new form completed if necessary when:

1. The patient is transferred from one care setting or care level to another, or
2. There is a substantial change in the patient's health status, or
3. The patient's treatment preferences change, or
4. At least annually, but more frequently in residential or inpatient settings.

Voiding DNR/COLST

To void this form or a part of it, draw a line through each page or section to be voided and write "VOID" in large letters.

CHAPTER 12

FORM 6: STATUTORY FORM POWER OF ATTORNEY

FORM LETS POWER GO TO A PERSON OVER PROPERTY, MONEY, AND MORE

This form lets a person share power with someone to do things with the person's property, money, and other things. Many people call this form a "Financial Power Of Attorney". This book's form is based on the statutory form found in Vermont law at 14 V.S.A. § 4051.

FORM GIVES POWER TO LET SOMEONE DO THINGS

This form lets a person give power to do things with their money, property, records, and other things to someone trusted like a spouse, other family member, or a friend. The person giving power is usually called the "Principal". The person getting power is usually called the "Agent" or "Attorney in Fact". If a person is sick or busy this form can let someone help pay bills, use accounts, buy or sell items, borrow, hire workers, sign contracts, and see records. This form can avoid need for serious legal options like court guardianship. Most people let the form be effective immediately and skip saying anything else about timing to avoid a bank or other party delaying and needing proof of things. A person who isn't incapacitated can overrule or fire an Agent. The form also lets a person say who'd they prefer as Guardian if a judge ever later finds this needed.

IN FORM CAN SELECT NORMAL POWERS AND MORE RISKY POWERS TO GIVE

A person can initial some boxes to say which of more normal powers are given in the "General Authority" part of the form. Most people give all these powers. Then later in the form is the "Specific Authority" part of the form, and in this part some more risky and less often needed powers can be given, and most people skip all these powers. Instructions can be written to follow but most people after naming an Agent skip giving instructions since if these are unclear a bank or others may delay or refuse to obey an Agent.

DUE TO RISKS MANY SKIP THIS FORM OR CONSULT A LAWYER

Many people skip this form or first see a lawyer. Using this form is risky and can lead to harm since the Agent can be wasteful with money, commit fraud or theft, by carelessness allow other harms, or do worse. A person acting as Agent has a duty to be loyal and act reasonably and can be sued for any harm, but they may later be out of money to pay. Usually banks and others can't be blamed for obeying an Agent's orders. The law is complex and basic acts may be fine for Agent like paying bills but some acts may be improper like making gifts, risky investments, or unusual acts. It is best if a person not their Agent does anything unusual.

PERSON SIGNS FORM IN FRONT OF A NOTARY AND ALSO ON FIRST PAGE

The person doing the form must sign it in front of a notary who then notarizes it. Later whenever an Agent signs a contract using the form for authority their signature should be like, for example: "Ed Smith signing as Agent under a Power of Attorney for Ann Hill". To cancel the form a person usually tells the Agent and takes back copies and maybe tells places that saw the form it is canceled. Some banks may also later ask the Agent fill out and sign the statutory form found in law at 14 V.S.A. § 4053.

VERMONT STATUTORY FORM POWER OF ATTORNEY

IMPORTANT INFORMATION

This power of attorney authorizes another person (your agent) to make decisions concerning your property for you (the principal). Your agent will be able to make decisions and act with respect to your property (including your money) whether or not you are able to act for yourself. The meaning of authority over subjects listed on this form is explained in the Vermont Uniform Power of Attorney Act, 14 V.S.A. chapter 127.

This power of attorney does not authorize the agent to make health-care decisions for you.

You should select someone you trust to serve as your agent. Unless you specify otherwise, generally the agent's authority will continue until you die or revoke the power of attorney or the agent resigns or is unable to act for you. Your agent is entitled to reasonable compensation unless you state otherwise in the Special Instructions.

This form does not revoke powers of attorney previously executed by you unless you initial the introductory paragraph under DESIGNATION OF AGENT that all previous powers of attorney are revoked.

This form provides for designation of one agent. If you wish to name more than one agent, you may name a coagent in the Special Instructions. Coagents are not required to act together unless you include that requirement in the Special Instructions.

If your agent is unable or unwilling to act for you, your power of attorney will end unless you have named a successor agent. You may also name a second successor agent.

This power of attorney becomes effective immediately unless you state otherwise in the Special Instructions.

If you have questions about the power of attorney or the authority you are granting to your agent, you should seek legal advice before signing this form.

DESIGNATION OF AGENT

I _____ (Name of Principal) name the following person as my agent:

Name of Agent: _____

Agent's Address: _____

Agent's Telephone Number: _____

DESIGNATION OF SUCCESSOR AGENT(S) (OPTIONAL)

If my agent is unable or unwilling to act for me, I name as my successor agent:

Name of Successor Agent: _____

Successor Agent's Address: _____

Successor Agent's Telephone Number: _____

(_____) If I initial this line I revoke all previous powers of attorney made before this document.

GRANT OF GENERAL AUTHORITY

I grant my agent and any successor agent general authority to act for me with respect to these subjects as defined in the Vermont Uniform Power of Attorney Act, 14 V.S.A. chapter 127.

(INITIAL each subject you want to include in the agent's general authority. If you wish to grant general authority over all of the subjects, you may initial "All Preceding Subjects" instead of initialing each subject.)

- () Real Property
- () Tangible Personal Property
- () Stocks and Bonds
- () Commodities and Options
- () Banks and Other Financial Institutions
- () Operation of Entity or Business
- () Insurance and Annuities
- () Estates, Trusts, and Other Beneficial Interests
- () Claims and Litigation
- () Personal and Family Maintenance
- () Benefits from Governmental Programs or Civil or Military Service
- () Retirement Plans
- () Taxes
- () **All Preceding Subjects**

GRANT OF SPECIFIC AUTHORITY (OPTIONAL)

My agent MAY NOT do any of the following specific acts for me UNLESS I have INITIALED the specific authority listed below:

(CAUTION: Granting any of the following will give your agent the authority to take actions that could significantly reduce your property or change how your property is distributed at your death. INITIAL ONLY the specific authority you WANT to give your agent.)

- () An agent who is not an ancestor, spouse, or descendant may exercise authority under this power of attorney to create in the agent or in an individual to whom the agent owes a legal obligation of support an interest in my property whether by gift, rights of survivorship, beneficiary designation, disclaimer, or otherwise
- () Create, amend, revoke, or terminate an inter vivos, family, living, irrevocable, or revocable trust
- () Consent to the modification or termination of a noncharitable irrevocable trust under 14A V.S.A. § 411

- (____) Make a gift, subject to the limitations of 14 V.S.A. § 4047 (gifts) and any special instructions in this power of attorney
- (____) Consent to the modification or termination of a noncharitable irrevocable trust under 14A V.S.A. § 411
- (____) Create, amend, or change a beneficiary designation
- (____) Waive the principal's right to be a beneficiary of a joint and survivor annuity, including a survivor benefit under a retirement plan
- (____) Exercise fiduciary powers that the principal has authority to delegate
- (____) Authorize another person to exercise the authority granted under this power of attorney
- (____) Disclaim or refuse an interest in property, including a power of appointment
- (____) Exercise authority with respect to elective share under 14 V.S.A. § 319
- (____) Exercise waiver rights under 14 V.S.A. § 323
- (____) Exercise authority over the content and catalogue of electronic communications and digital assets under 14 V.S.A. chapter 125 (Vermont Revised Uniform Fiduciary Access to Digital Assets Act)
- (____) Exercise authority with respect to intellectual property, including, without limitation, copyrights, contracts for payment of royalties, and trademarks
- (____) Convey, or revoke or revise a grantee designation, by enhanced life estate deed pursuant to chapter 6 of Title 27 or under common law.

LIMITATION ON AGENT'S AUTHORITY

An agent who is not my ancestor, spouse, or descendant MAY NOT use my property to benefit the agent or a person to whom the agent owes an obligation of support unless I have included that authority in the Special Instructions.

WHEN POWER OF ATTORNEY EFFECTIVE

This power of attorney becomes effective when executed unless the principal has initialed one of the following:

- (____) This power of attorney is effective only upon my later incapacity.

OR

- (____) This power of attorney is effective only upon my later incapacity or unavailability.

OR

- (____) I direct that this power of attorney shall become effective when one or more of the following occurs: _____

SPECIAL INSTRUCTIONS (OPTIONAL)

You may give special instructions on the following lines: _____

(attach additional pages if needed)

EFFECTIVE DATE

This power of attorney is effective immediately unless I have stated otherwise in the Special Instructions or elsewhere in this document.

NOMINATION OF GUARDIAN (OPTIONAL)

If it becomes necessary for a court to appoint a guardian of my estate or a guardian of my person, I nominate the following person(s) for appointment:

Name of Nominee for **[conservator or guardian] of my estate**: _____

Nominee's Address: _____

Nominee's Telephone Number: _____

Name of Nominee for **guardian of my person**: _____

Nominee's Address: _____

Nominee's Telephone Number: _____

RELIANCE ON THIS POWER OF ATTORNEY

Any person, including my agent, may rely upon the validity of this power of attorney or a copy of it unless that person knows it has terminated or is invalid. Unless expressly stated otherwise, this power of attorney is durable and shall remain valid if I become incapacitated or unavailable.

SIGNATURE AND ACKNOWLEDGMENT

Your Signature: _____

Your Name Printed: _____ Your Phone Number: _____

Your Address: _____

Notary:

STATE OF VERMONT

COUNTY OF: _____

This document was acknowledged before me on: _____ (Date)

by _____ (Name of Principal).

Signature of Notary: _____

My commission expires: _____

IMPORTANT INFORMATION FOR AGENT

Agent's Duties

When you accept the authority granted under this power of attorney, a special legal relationship is created between you and the principal. This relationship imposes upon you legal duties that continue until you resign or the power of attorney is terminated or revoked. You must:

- (1) do what you know the principal reasonably expects you to do with the principal's property or, if you do not know the principal's expectations, act in the principal's best interests;
- (2) act in good faith;
- (3) do nothing beyond the authority granted in this power of attorney; and
- (4) disclose your identity as an agent whenever you act for the principal by writing or printing the name of the principal and signing your own name as "agent" in the following manner:

(Principal's Name) by (Your Signature) as Agent.

Unless the Special Instructions in this power of attorney state otherwise, you must also:

- (1) act loyally for the principal's benefit;
- (2) avoid conflicts that would impair your ability to act in the principal's best interest;
- (3) act with care, competence, and diligence;
- (4) keep a record of all receipts, disbursements, and transactions made on behalf of the principal;
- (5) cooperate with any person that has authority to make health-care decisions for the principal to do what you know the principal reasonably expects or, if you do not know the principal's expectations, to act in the principal's best interests; and
- (6) attempt to preserve the principal's estate plan if you know the plan and preserving the plan is consistent with the principal's best interests.

Termination of Agent's Authority

You must stop acting on behalf of the principal if you learn of any event that terminates this power of attorney or your authority under this power of attorney. Events that terminate a power of attorney or your authority to act under a power of attorney include:

- (1) death of the principal;
- (2) the principal's revocation of the power of attorney or your authority;
- (3) the occurrence of a termination event stated in the power of attorney;
- (4) the purpose of the power of attorney is fully accomplished; or
- (5) if you are married to the principal, a legal action is filed with a court to end your marriage, or for your legal separation, unless the Special Instructions in this power of attorney state that such an action will not terminate your authority.

Liability of Agent

The meaning of the authority granted to you is defined in the Vermont Uniform Power of Attorney Act, 14 V.S.A. chapter 127. If you violate the Vermont Uniform Power of Attorney Act, or act outside the authority granted, you may be liable for any damages caused by your violation.

In addition to civil liability, failure to comply with your duties and authority granted under this document could subject you to criminal prosecution.

If there is anything about this document or your duties that you do not understand, you should seek legal advice.

CHAPTER 13

FORM 7: POWER OF ATTORNEY FOR MINOR CHILD

FORM LETS PARENT SHARE POWER WITH SOMEONE OVER CHILD UNDER 18

This form lets a parent or guardian of a child under age 18 share power over them with someone else.

Note, unlike most states Vermont has no state law saying giving power over a child this way is OK, so not all doctors, schools, and other persons may obey or follow this form. But some people still get this form often from a lawyer if leaving a child with someone, and it is felt having something on paper is better than nothing. People who want to act more officially can file Guardianship papers with a judge to have them officially transfer power from a parent to a Guardian.

FORM CAN GIVE POWER TO SOMEONE OVER CHILD UNDER AGE 18

In the form a parent or guardian can say they are sharing power over a child under 18 with some person. The person getting power can be called the “Attorney-In-Fact” but the term “Agent” is more often used now. Often receiving power is a relative, friend, or teacher now helping watch a child or who is willing to do this if ever needed. This form is often used if a parent and child are apart for work, school, training, rehab, sports, prison, military, immigration, or long visits. The form is mostly not done for brief situations like a babysitter, daycare, short family visits, or times a parent can come quickly. People with more than 2 children can change the form to add more room for them or can just do multiple forms. Power over health care and school is normally given by this form, but no power to agree to adoption or any permanent change is given. The person who did the form can fire or overrule the person they named.

PERSON SIGNS FORM IN FRONT OF A NOTARY AND ALSO ON FIRST PAGE

The person doing the form must sign it in front of a notary who then notarizes it. Some people modify the form to have room for a 2nd parent to also fill out and sign this form, and this tends to make doctors, schools, and others more likely to follow the form. A guardian can also use this form but they should modify it to show a guardian not a parent is doing this form. To cancel the form a person usually tells the Agent and takes back all copies, and maybe also tells all places that were shown the form that it's canceled.

POWER OF ATTORNEY FOR MINOR CHILD

1. Identification of Parent and Child.

I, _____, currently living at _____
and having a phone number of _____ am
the parent of the minor child named _____
born on the date of _____. All references in this document
to "the child" are to this child. This Power of Attorney is effective immediately.

2. Designation of Agent.

I appoint _____ with a phone number of _____
as attorney-in-fact for the child.

3. Powers Granted.

**I delegate power and authority I have over the child to this attorney-in-fact,
including they may do and decide anything I could do if I were personally present.**

I do not delegate or give other power and authority, such as over my property and money.
Powers given include but are not limited to the child's health care, surgery, medical
treatment, medical tests and labs, school, extra-curricular activities, home issues,
recreation, schedule, discipline, clothing, power to see and request records even if
confidential, and food and drink. Powers delegated do not include the power to
terminate a parental relationship or to consent to marriage or adoption.

Signed on the _____ day of _____, 20____.

Signature of Principal: _____

Notary:

STATE OF VERMONT

COUNTY OF: _____

This document was acknowledged before me on: _____ (Date)

by _____ (Name of Principal).

Signature of Notary: _____

My commission expires: _____

CHAPTER 14

FORM 8: DESIGNATION OF AGENT FOR AFTER DEATH ARRANGEMENTS

LETS PERSON BE NAMED AND INSTRUCTIONS GIVEN TO HANDLE DEAD BODY

This form lets someone be named and instructions be given by a person to control their body after death (their “remains”) and related things like funeral, burial, cremation, ceremonies, and buying things for all this. This book’s form is similar to the form some funeral homes use.

FORM CAN NAME PERSON TO CONTROL DEAD BODY AND RELATED ISSUES

This form lets a person authorize someone as “Designated Agent” to control the person’s dead body and all related issues like funeral, burial, cremation, ceremonies, and buying goods and services for all this. If this form isn’t done then under state law control of all this is by the closest family member (in order this means a spouse, adult children, parents, then siblings). People do this form rarely, like if it seems family would do a bad job like they may be too upset while mourning, be bad with money, or do unwanted things. Payment for burial, cremation, ceremonies, and related things will come from pre-paid funeral accounts, insurance, and a dead person’s money and property. A person’s Executor and family are legally required to help arrange payment for these things if a dead person left enough money and property to pay for things. Note, instead of using this form some people put funeral and related instructions in their Will or in their Health Care Advance Directive.

FORM CAN GIVE INSTRUCTIONS THAT EVERYONE MUST FOLLOW

The form also has an optional spot for directions like saying what funeral, burial, cremation, tombstone, ceremonies, songs, scriptures, pastors, food, and other things are wanted or already paid for. Or a person can attach pages of paper with these instructions. These instructions should be followed by everyone so long as the dead person’s estate can afford it. But many people skip giving any directions and instead they just trust the person they named in the form or their family to do what they mentioned they wanted. In recent years more people write or say they want “Direct Burial” or “Direct Cremation”, and this is a cheaper option done fast in a few days and without family watching, and then family often in month or so hold an informal big dinner to celebrate the dead person (either without the body at all or when family later get the ashes or can visit the grave). Note, a person can skip either half of the form and only name an Agent or only give some instructions. About half of people now do cremation which is cheaper than burial.

PERSON SHOULD SIGN FORM IN FRONT OF 2 WITNESSES

Most people sign the form in front of 2 persons acting as witnesses who then also sign. A witness should not be someone given power in the form. Once done the form can be given to someone to hold and use when needed, or it can be put in a place where it can be found quickly within a few days of a death (like in a file cabinet, a safe, or desk drawer).

DESIGNATION OF AGENT FOR AFTER DEATH ARRANGEMENTS

I, who am named _____ and who lives at _____ do hereby designate the person named _____ who lives at _____, as my Designated Agent to have full custody and control of my bodily remains and all reasonably related matters including my funeral, burial, cremation, ceremonies involving my body or remains, and deciding on goods and services to do all these things. I give them the full right, power, and authority to do every act, deed, and thing necessary or helpful regarding the above matters, as fully as I could do if personally present and acting.

OPTIONAL INSTRUCTIONS

The Designated Agent, and also my family and all other persons, should follow these instructions about my remains and related matters after my death:

(attach additional pages if necessary)

Signed: _____ Date: _____

DECLARATION OF WITNESSES

We, the Witnesses who sign below, declare that _____ is personally known to us or sufficiently proved their identity, that they signed this document in our presence while appearing to be of sound mind and not acting under duress, fraud or undue influence, and that neither of us is the person so appointed by this document.

Signature of Witness: _____ Date: _____

Signature of Witness: _____ Date: _____

APPENDIX: SAMPLE FILLED OUT FORMS

TO GET FORMS TO USE PEOPLE CAN:

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

EMAIL ANY COMMENTS TO DAVENPORTPRESS@GMAIL.COM.

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

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

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

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

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

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

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

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

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

Sample Filled Out Form: Last Will and Testament (Standard)
with Gifts section skipped to not bother making small gifts

LAST WILL AND TESTAMENT

I, Paul Samuel Maxwell, of Chittenden County, Vermont, 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. LIST OF SPOUSE AND CHILDREN. To help show I am mentally competent and have sufficient memory to make a Will I wish to list any living spouse and living children I now have. I currently have the following living spouse and living children:

none

_____.

2. 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

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

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 Executor including for me, my Will, and my estate.

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

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

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

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 their 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 specifically not providing for 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 an Executor 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 Executor may act independently with no supervision of any court, including independent administration, and with no inventory, appraisal, or other action.

I give any Executor 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 Executor 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.

No lawyer hired should be paid based on a percentage of estate property or similar.

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 Executor and Estate Fiduciary and Personal Representative and Administrator are interchangeable, Financial Guardian and Guardian of the Estate and Conservator and Guardian of Property and Custodian are interchangeable, and residue and residuary are interchangeable. Any such person may stand in place and act 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 Executor, Personal Representative, 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 Executor may at any time transfer money or property of a minor under age 18 to a Custodian to serve under the Vermont Uniform Transfers to Minors Act or a similar law anywhere, and they may pick the Custodian including themselves.

TESTATOR

IN WITNESS WHEREOF, I, the Testator, have signed this Will on the 22nd day of June, 2022 .

Paul Samuel Maxwell

Testator's Signature

Paul Samuel Maxwell

Testator's Printed Name

WITNESSES

The foregoing instrument was signed by the Testator in our presence and declared by the Testator to be the Testator's Will, and we, the undersigned Witnesses, sign our names hereunto acting as witnesses at the request and in the presence of the Testator, and in the presence of each other on the 21st day of June, 2021 .

Eve Mable Rogers

Witness Signature

Eve Mable Rogers, 14 2nd St., Burlington, VT 05053

Printed Name and Residence of Witness

Mary Ann Moon

Witness Signature

Mary Ann Moon, 35 Buffalo Road, Denver, Colorado 84001

Printed Name and Residence 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 Kent, of Rutland County, Vermont, 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. LIST OF SPOUSE AND CHILDREN. To help show I am mentally competent and have sufficient memory to make a Will I wish to list any living spouse and living children I now have. I currently have the following living spouse and living children:

Ruth May Kent wife Oscar Elliot Kent young son
Karen Lisa Lundy daughter
Derek Rupert Kent son.

2. 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, Hartford, Vermont
to Kenneth Alan Ford.

I give all real property and fixtures I own in Bennington County, Vermont 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 _____.

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 Kent my wife who survive me with persons just named who survive me taking the share of non-survivors, then

b) to 45% to Oscar Elliot Kent my son, and 45% to Karen Lisa Lundy my daughter, and 10% to 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 Kent my wife as Executor including for me, my Will, and my estate.

5. GUARDIAN. I name, nominate, and appoint Amanda Sue Brubaker my sister to to be if needed the Custodial Guardian of any minor child of mine and to have care, authority, custody, and other control of them (including as Guardian of the Person). I also name this same person to be Financial Guardian of any minor child of mine or other minor person and to have care, control, and power over all their property, money, and estate (including as Guardian of the Estate and, also, Guardian of Property).

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

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

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

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 their 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 specifically not providing for 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 an Executor 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 Executor may act independently with no supervision of any court, including

independent administration, and with no inventory, appraisal, or other action.

I give any Executor 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 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.

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

TESTATOR

IN WITNESS WHEREOF, I, the Testator, have signed this Will on the 30th day of December, 2021.

Paul Brian Kent

Testator's Signature

Paul Brian Kent

Testator's Printed Name

WITNESSES

The foregoing instrument was signed by the Testator in our presence and declared by the Testator to be the Testator's Will, and we, the undersigned Witnesses, sign our names hereunto acting as witnesses at the request and in the presence of the Testator, and in the presence of each other on the 30th day of December, 2021.

Olivia Joy Pawlenty

Witness Signature

Olivia Joy Pawlenty, 82 Forest Road, Hartford, Vermont 05501

Printed Name and Residence of Witness

Roy Felix Pawlenty

Witness Signature

Olivia Joy Pawlenty, 82 Forest Road, Hartford, Vermont 05501

Printed Name and Residence 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 Chittenden County, Vermont, 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. LIST OF SPOUSE AND CHILDREN. To help show I am mentally competent and have sufficient memory to make a Will I wish to list any living spouse and living children I now have. I currently have the following living spouse and living children:

my great son Adam Michael Smith

_____.

2. 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 \$100 to each one of cousins which will be about \$1,400 in total.

I give \$400 to Baker Food Shelf in Burlington, Vermont.

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 _____.

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 Baker who survive me and to lineal descendants per stirpes of a person just named who did not survive me.

4. ADMINISTRATION. I nominate and appoint Judy Paula Baker my sister as Executor including for me, my Will, and my estate.

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

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

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

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 their 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 specifically not providing for 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 an Executor 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 Executor may act independently with no supervision of any court, including independent administration, and with no inventory, appraisal, or other action.

I give any Executor 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 Executor 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.

No lawyer hired should be paid based on a percentage of estate property or similar.

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 Executor and Estate Fiduciary and Personal Representative and Administrator are interchangeable, Financial Guardian and Guardian of the Estate and Conservator and Guardian of Property and Custodian are interchangeable, and residue and residuary are interchangeable. Any such person may stand in place and act 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 Executor, Personal Representative, 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 Executor may at any time transfer money or property of a minor under age 18 to a Custodian to serve under the Vermont Uniform Transfers to Minors Act or a similar law anywhere, and they may pick the Custodian including themselves.

TESTATOR

IN WITNESS WHEREOF, I, the Testator, have signed this Will on the 21st day of June, 2021.

John David Smith

Testator's Signature

John David Smith

Testator's Printed Name

WITNESSES

The foregoing instrument was signed by the Testator in our presence and declared by the Testator to be the Testator's Will, and we, the undersigned Witnesses, sign our names hereunto acting as witnesses at the request and in the presence of the Testator, and in the presence of each other on the 21st day of June, 2021.

John Elliot Potter

Witness Signature

John Elliot Potter, 2 Spruce St, Sherwood, VT 05050

Printed Name and Residence of Witness

Ann Paula Blom

Witness Signature

Ann Paula Blom, 70 Rocky Road, Clarksville, VT 05028

Printed Name and Residence of Witness

Sample Filled Out Form: Self-Proving Affidavit

SELF-PROVING AFFIDAVIT

We, the undersigned, being the Testator and Witnesses to the attached Will, first being duly sworn, hereby state and acknowledge the following:

1. The attached or foregoing instrument is the Testator's Will dated on the 21st day of June, 2021.
2. The Testator signed the instrument as Testator's Will in the presence of 2 witnesses.
3. The signing was the Testator's free and voluntary act for the purposes expressed in the Will.
4. Each Witness signed at the request of the Testator, in the Testator's presence, and in the presence of the other Witness.
5. To the best knowledge of each Witness at the time of the signing, the Testator was at least 18 years of age or emancipated by court order and was of sound mind and under no constraint or undue influence.

IN WITNESS WHEREOF, we have hereunto set our hands at Burlington, Vermont, Vermont, this 21st day of June, 2021.

John David Smith
Testator's Signature

WITNESSES:

John Elliot Potter
Witness Signature

John Elliot Potter, 2 Spruce St, Sherwood, VT 05050
Printed Name and Residence of Witness

Ann Paula Blom
Witness Signature

Ann Paula Blom, 70 Rocky Road, Clarksville, VT 05028
Printed Name and Residence of Witness

STATE OF VERMONT)
Chittenden COUNTY) ss.

The foregoing was signed and sworn to, or affirmed, by the aforementioned Witnesses and Testator at Burlington, Vermont, Vermont, this 21st day of June, 2021.



Jessiva Jones
Notary Public
Printed name: _____
My Commission expires: _____