

**DAVENPORT'S
NEW HAMPSHIRE WILLS
AND
ESTATE PLANNING
LEGAL FORMS**

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

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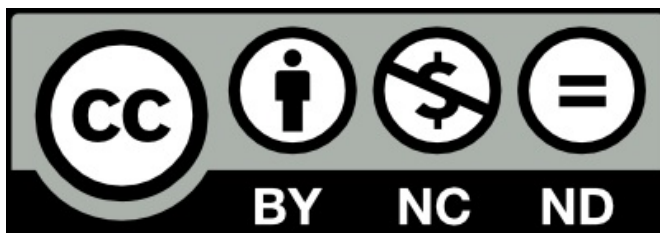
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CHAPTER 1

BOOK BASICS AND LIST OF FORMS

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

This book helps New Hampshire people do legal documents to 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 others 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 New Hampshire 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 (Durable Power Of Attorney For Health Care And Living Will) – lets a person name someone as Agent to control health care if the person is ever incapacitated, and also lets a person give instructions like on “Living Will” issues about stopping certain care if the person ever is incapacitated and later has a terminal condition or is permanently unconscious.

Form 5. Providers Orders For Life Sustaining Treatment – does serious act of saying to paramedics, doctors, and others that immediately from now on do not try health care listed like C.P.R. or tube feeding.

GIVING POWER FORMS

Form 6. Statutory Power Of Attorney – lets power over money, property, and more be shared with a 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.

NEW HAMPSHIRE LAW ON ESTATE PLANNING COVERS MOST PEOPLE HERE

This book is only for New Hampshire since Estate Planning law and legal documents 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 state law is a bit different. This book can't cover all issues but should suit almost all 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 it can be costly, take months of work, and they can make mistakes. In life people often pick a cheap option. Importantly often a hospital, state agency, charity, or state legislature has made a form most people use and call the "standard form", and doctors, judges, and 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 had both parents die. *See Social Security Tables: Felicitie Bell; Parent Mortality Census SIPP Paper #288.* Many people spend more time and money on having 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”

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

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.
- New Hampshire law unlike some states does not let a short list or memo be used to add gifts to a Will.
- Though separate forms exist usually organ donation is handled in drivers license or state ID paperwork.

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

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

NO FEDERAL, STATE, OR LOCAL TAX IS USUALLY OWED DUE TO 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 covering \$13.61 million a person in the year 2024 and later.

New Hampshire no longer has any state or local estate or inheritance taxes that are owed due to a death. This is a big change that has happened since the year 2000.

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” covers both these terms and is sometimes used in New Hampshire for the person doing things after a death.

■ A person doing a Will is called “Testator” or “Will maker”. Before about 2000 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 “New Hampshire Revised Statutes Annotated”. Revised means updated. Annotated means the laws are in books with notes. A law is called a “statute” or “section” shown by a “§” or “s” mark. A New Hampshire law can be referred to in many ways, like: N.H. Rev. Stat. § 551:2 or R.S.A. 551:2. A legal form written in state law for people to find and use if wanted is usually 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 that names 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 a tiny 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, vehicle loan, and accounts payable:

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

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

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

CHAPTER 3

WILL BASICS

WILL LETS “TESTATOR” CONTROL THINGS AFTER DEATH

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

A WILL USUALLY MUST BE SIGNED WITH 2 WITNESSES

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

Under state 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 2 persons acting as witnesses who then sign. A Will spoken on a video or audio recording with no writing has no legal effect. Often witnesses are friends, neighbors, co-workers, family, or strangers. Some states let witnesses be skipped for a Will that’s handwritten but New Hampshire does not.

WITNESSES SHOULD AT LEAST AGE 18 AND USUALLY NOT GETTING GIFTS

A person to witness a Will must be at least age 18. It is better but not required that witnesses not be old, not live far away, and not be named in the Will as Executor, Guardian, or a similar job. In New Hampshire a Will is still valid if a witness or their spouse are getting Will gifts but such gifts later won’t be carried out unless 1) there are 2 other sufficient witnesses or 2) the person would get more by state intestate law if there were no Will. To avoid any issue usually witnesses or their spouse are not named to get things in a Will.

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

The person doing the Will should sign it with 2 witnesses who then sign too while everyone is 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 it and rarely use it. The Testator need not initial the 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 says 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, and any illegitimate children a person is fairly sure of. A person without these people can skip this or write “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 a Testator writing a Will is free to give them nothing.

CANCELING OLD WILLS IS USUALLY NOT A PROBLEM

So a new Will is followed old Wills should be canceled (“revoked”) but this is easy and rarely a problem. A new Will usually quickly says old Wills are revoked to cancel them, and all this book’s Will forms say this. A few people revoke an old Will by writing “void” or “cancelled” or “X” on it, preferably with a witness to this. Usually crossing out just part of a Will has no effect, 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. Most New Hampshire courts no longer let a Will be deposited early for safekeeping while a Testator is still alive.

A WILL NAMES AN EXECUTOR TO DO THINGS AFTER DEATH

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

Usually a Will names someone as “Executor” to act after a death like handle debts, find and collect and give new owners property and money, and do probate. The law gives Executors many helpful legal powers. If a Will fails to name an Executor a judge can pick someone, but family may argue about who to suggest. The term “Personal Representative” and not Executor is sometimes used in New Hampshire for the person doing things after a death, but these terms 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 can be paid. As an 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 / hour is fair, so pay is \$6,000. However some Testators don’t want pay for the Executor so just add a Will line saying to not pay them. In reality most Executors later skip asking for pay to avoid 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 hourly or a fixed sum that the lawyer and Executor negotiate and agree on.

EXECUTOR IS PERSON AT LEAST 18 AND SECOND PERSON RARELY NEEDED

A person to be Executor must be at least 18 and usually have no bad criminal record like a felony unless a judge agrees. Executors needn’t live in the state but it makes work easier, and non-residents must later get permission from a judge to serve. Naming 2 people to both be Executor is rare due to the risk of delay or arguments and also 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 as 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 rights which this book later explains.

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 Hill”. Money gifts are easy to write, let equal gifts be made, and are safer since specific items might not be owned at death. To carry out money gifts an Executor uses some accounts or sells property.

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

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

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

Many Wills like this book’s Will forms say a person named in 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 Wu and Sue Han” means each person owns 50% 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 especially 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.”

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

New Hampshire 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 may have the Will followed but later people can voluntarily retransfer items.

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.

SOME PEOPLE USE PERCENTAGES TO GIFT DIFFERENT AMOUNTS OF RESIDUE

Some people use percentages in a Residue Clause to get the exact split wanted. This can gift a lot (like to a person’s children) and gift a small bit (like to a grandchild or more distant people). *See example in Appendix.*

SOME PEOPLE WRITE THE SAME THING IN BOTH PARTS OR SKIP A PART

Some people put the same names in both clause spaces or skip part of it to do certain things. For example, a person with no spouse may skip the 1st part and in 2nd part name their children (including any who died who had kids of their own) so all branches of a person’s descendants get a share. *See example in Appendix.*

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 Grafton County Library, NH", 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, Nashua, New Hampshire, 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 Carroll County, New Hampshire 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 family and friends may later 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

State "intestate law" which starts at New Hampshire R.S.A. 561:1 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 things usually go upon a death in order to any surviving spouse of decedent, any surviving children of decedent (if there's also a spouse the children and spouse often split things), any surviving parents of decedent, any surviving brothers or sisters of decedent, more distant family of decedent, and then the state. New Hampshire law is a bit different and people who are curious can look up and read the full state law. Some laws like homestead laws may affect what and how much goes to people. Note, if a family member has died then their children often legally get their share in their place.

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 which some people can skip.

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 priority to be paid first. But 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 at all for decedent's debts unless they guaranteed or co-signed.

"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 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 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 family can get from accounts a sum equal to decedent's post-tax salary.

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 the 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, New Hampshire 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 often called the “homestead”. Many states have a “homestead law” and related laws so people usually legally can’t sell or by Will gift give away a homestead they own unless any spouse signs to consent to this. Also, usually legally the decedent’s spouse for their life has a right to stay in decedent’s homestead (in a few states decedent’s children also can stay till age 18). The rights of a spouse or children to a homestead usually override any Will or other transfer trying to get the homestead to someone else. Lastly, usually legally a homestead occupied by a family is free from actions of decedent’s creditors like foreclosure unless equity is big (usually over \$120,000) or a creditor has a mortgage. Clearly if family use homestead and related laws this may block or delay someone else other than a spouse or children getting decedent’s homestead. Due to homestead and related laws to avoid issues usually a person gives a family house by Will or other way to any spouse or small children. Note, New Hampshire 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

New Hampshire 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 a spouse. But joint ownership by 2 spouses so both own a thing and not separate ownership can arise in special 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 for a spouse is normally 1/2 of decedent’s money and property, but it is 1/3 if a decedent left surviving children or grandchildren. 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 interfere 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, New Hampshire does have an Elective Share law and people who are curious can do more research.

CHILD ISSUES

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

If a parent dies with a child under 18 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, home, and other 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 if later both parents die) a Will often names a healthy and willing relative or friend to be if needed “Guardian of the Person” to care for a child and have these powers.

WILL CAN NAME “GUARDIAN OF THE ESTATE” TO HANDLE CHILD'S PROPERTY

Since a child until age 18 can't legally manage money or property a Will often names a person to act as “Guardian of the Estate” to manage the child's property and money (some call this person a “Conservator”). They decide each year how to use this property and money for a child's costs (like school, living, and health care) till usually age 18 when all left goes to a child. Judges often hold a yearly hearing to review spending. Those paying things for a child (including the Guardian of the Estate) 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 just like a Guardian of the Estate does. 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 Guardian of the Person caring for a child and also be Guardian of the Estate caring for a child's money and property. But people can change a Will to name different people for the 2 positions. But 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 18 or older. They must not have a bad criminal record like a felony unless a judge agrees they can serve anyway. They 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% of children will not lose both parents). *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 (“pulling the plug”) likely matters due to extreme illness or old age:

-- most people do nothing special and trust family or Agent for health care to decide on stopping care based on many factors like pain, cost, hassle, suffering and time of treatment, beliefs, and chances of recovery;

-- a few people do a serious document to say to stop most health care if later doctors decide a person is incapacitated, has an irrevocable terminal condition or likely won’t regain good consciousness, and more medical care won’t help (this document to stop care is often called a “Living Will” though names vary);

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

CHAPTER 7

FORM 1: 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. The person doing a Will is called the Testator. The word Testament is often used in a Will since a Testament use to be legal document done alongside a Will.

FORM IS A WILL WITH SEVERAL PARTS INCLUDING A GUARDIAN PART

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

Paragraph 1, "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

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 person named here has died before the Will maker then any other 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 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 _____, New Hampshire, 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 act 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 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 New Hampshire law to apply to this Will.

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

If context permits the terms Executor and Personal Representative and Administrator are interchangeable, Guardian of the Estate and Conservator and Guardian of Property and Custodian are interchangeable, and residue and residuary are interchangeable. By this provision any of these persons legally stand in the same place and may 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 New Hampshire Uniform Transfers to Minors Act or a similar law anywhere, and they may pick the Custodian including themselves.

TESTATOR

IN WITNESS WHEREOF, I hereunto set my hand and, in the presence of 2 witnesses, declare this to be my Will, on the _____ day of _____, 20____.

Testator's Signature

Testator's Printed Name

WITNESSES

Signed and declared by the said Testator as and for the Will of Testator, in the presence of us, the Witnesses, who at the Testator's request, in the Testator's presence, and in the presence of each other, hereunto subscribe our names acting as witnesses.

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 states and people use the term Personal Representative for this).

Paragraph 5, "Guardian", names a person to if needed be Guardian of the Person to care for minor children, and also if needed to be Guardian of the Estate 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 person named here has died before the Will maker then any other 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 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 _____, New Hampshire, 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 act 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 nominate and appoint _____
as Executor including for me, my Will, and my estate.

5. GUARDIAN. I name _____ to be if needed the
Guardian of the Person of any minor child of mine to have care, authority, custody, and
other control of them, including with the minor child being their ward. I also name this
same person to be if needed Guardian of the Estate for any minor child of mine or other
minor person and to have care, control, and power over their property, money, and estate.

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 New Hampshire law to apply to this Will.

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, Conservator, Custodian, or other person managing a minor’s property or

money may use or invade the principal and also sell any property without court action.

If context permits the terms Executor and Personal Representative and Administrator are interchangeable, Guardian of the Estate and Conservator and Guardian of Property and Custodian are interchangeable, and residue and residuary are interchangeable. By this provision any of these persons legally stand in the same place and may 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 New Hampshire Uniform Transfers to Minors Act or a similar law anywhere, and they may pick the Custodian including themselves.

TESTATOR

IN WITNESS WHEREOF, I hereunto set my hand and, in the presence of 2 witnesses, declare this to be my Will, on the _____ day of _____, 20____.

Testator's Signature

Testator's Printed Name

WITNESSES

Signed and declared by the said Testator as and for the Will of Testator, in the presence of us, the Witnesses, who at the Testator's request, in the Testator's presence, and in the presence of each other, hereunto subscribe our names acting as witnesses.

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 when 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 at N.H. Rev. Stat. § 551:2.

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

STATE OF NEW HAMPSHIRE

COUNTY OF _____

The foregoing instrument was acknowledged before me this
_____ (day/date) by
_____, the Testator; and
_____ and _____, the Witnesses,
who under oath do swear as follows:

1. The Testator signed the instrument as the Testator's Will or expressly directed another to sign for the testator.
2. This was the Testator's free and voluntary act for the purposes expressed in the Will.
3. Each Witness signed at the request of the Testator, in the Testator's presence, and in the presence of the other Witness.
4. To the best of my knowledge, at the time of the signing the Testator was at least 18 years of age, or if under 18 years was a married person, and was of sane mind and under no constraint or undue influence.

Signature of Testator

Signature of Witness

Signature of Witness

Notary:

Signature of Notarial Officer
Notary Public, State of New Hampshire
My Commission Expires: _____

CHAPTER 10

FORM 4: ADVANCE DIRECTIVE (DURABLE POWER OF ATTORNEY FOR HEALTH CARE AND LIVING WILL)

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. This form also can cover what to do if someone later has a terminal illness or will remain unconscious, and many people call these “Living Will” issues. Many other states cover Living Will issues in a separate form. This book’s form is a statutory form found in state law at N.H. Rev. Stat. § 137-J:20. This form is “durable” so it still is effective if a person is later incapacitated but all power of the form ends at the person’s death.

FORM CAN NAME AGENT FOR HEALTH CARE

In the “Durable Power Of Attorney For Health Care” part of the form an Agent can be named to control health care in case the person doing the form is later incapacitated (like by inability to be conscious, be rational, or communicate). The person given power is called the Agent or sometimes the Attorney-In-Fact. The person doing the form is called the Principal. Often named as Agent is a spouse, adult child, relative, or a friend. Naming a spouse or other relative as Agent can avoid them having to later rush to a judge to get more power over health care. A second person can be named to act if the first person doesn’t, but this is rarely needed and many skip this. Health care workers usually shouldn’t be the Agent.

FORM CAN GIVE INSTRUCTIONS INCLUDING ON “LIVING WILL” ISSUES

In the “Living Will” part of the form some health care instructions can be given. But many people skip this since an Agent or family are trusted to wisely decide things, and if instructions aren’t clear it can cause legal issues or long delays. This part of the form can cover what many people call “Living Will” issues, and this is about whether to stop health care in situations like if a person is ever incapacitated and will stay unconscious or if a person is ever incapacitated and has a terminal condition and more health care likely will not help. Note, many people name an Agent in the first part of the form and totally skip the Living Will part of the form. Some health facilities use a similar form that covers organ donation, but many people instead handle organ donation issues in drivers license or state ID forms or just skip this.

PERSON SIGNS FORM IN FRONT OF EITHER NOTARY OR 2 WITNESSES

The form can be signed by a person in front of a notary or a justice of the peace who then notarizes it, or it can be signed by a person in front of 2 witnesses who then sign too. A person doing the form may not use as a witness someone who is either the person’s Health Care Agent or similar, the person’s spouse or heir at law, a person entitled to any part of the estate of the principal upon death of the principal in any way, or a person directly involved in giving care like a doctor or anyone working for them. Only 1 of the witness may be someone who is the person’s health or residential care provider or an employee of such persons. Once done the form usually is shown to places that may give care to put in the person’s file to be followed. To cancel a form a person usually tells places that saw the form it’s canceled.

NEW HAMPSHIRE ADVANCE DIRECTIVE (DURABLE POWER OF ATTORNEY FOR HEALTH CARE AND LIVING WILL)

(New Hampshire Revised Statutes Annotated Chapter 137-J)

AN ADVANCE DIRECTIVE IS A LEGAL DOCUMENT. YOU SHOULD KNOW THESE FACTS BEFORE SIGNING IT.

- This form allows you to choose who you want to make decisions about your health care when you cannot make decisions for yourself. This person is called your "agent". You should consider choosing an alternate in case your agent is unable to act.
- Agents must be 18 years old or older. They should be someone you know and trust. They cannot be anyone who is caring for you in a health care or residential care setting.
- This form is an "advance directive" that defines a way to make medical decisions in the future, when you are not able to make decisions for yourself. It is not a medical order (e.g., it is not in and of itself a DNR (do not resuscitate order or (POLST))).
- You will always make your own decisions until your medical practitioner examines you and certifies that you can no longer understand or make a decision for yourself. At that point, your "agent" becomes the person who can make decisions for you. If you get better, you will make your own healthcare decisions again.
- With few exceptions(*), when you are unable to make your own medical decisions, your agent will make them for you, unless you limit your agent's authority in Part I.B of the durable power of attorney form. Your agent can agree to start or stop medical treatment, including near the end of your life. Some people do not want to allow their agent to make some decisions. Examples of what you might write in include: "I do NOT want my agent ...
 - to ask for or agree to stop life-sustaining treatment (such as breathing machines, medically-administered nutrition and/or hydration (tube feeding), kidney dialysis, other mechanical devices, blood transfusions, and certain drugs)."
 - to ask for or to agree to a Do Not Resuscitate Order (DNR order)."
 - to agree to treatment even if I object to it in the moment, after I have lost the ability to make health care decisions for myself."
- The law allows your agent to put you in a clinical trial (medical study) or to agree to new or experimental treatment that is meant to benefit you if you have a disease or condition that is immediately life-threatening or if untreated, may cause a serious disability or impairment (for example new treatment for a pandemic infection that is not yet proven). You may change this by writing in the durable power of attorney for health care form:
 - "I want my agent to be able to agree to medical studies or experimental treatment in any situation." or
 - "I don't want to participate in medical studies or experimental treatment even if the treatment may help me or I will likely die without it."
- Your agent must try to make the best decisions for you, based on what you have said or written in the past. Tell your agent that you have appointed them as your healthcare decision maker. Talk to your agent about your wishes.
- In the "living will" section of the form, you can write down wishes, values, or goals as guidance for your agent, surrogate, and/or medical practitioners in making decisions about your medical treatment.

- You do not need a lawyer to complete this form, but feel free to talk to a lawyer if you have questions about it.
 - You must sign this form in the physical presence of 2 witnesses or a notary or justice of the peace for it to be valid. The witnesses cannot be your agent, spouse, heir, or anyone named in your will, trust or who may otherwise receive your property at your death, or your attending medical practitioner or anyone who works directly under them. Only one witness can be employed by your health or residential care provider.
 - Give copies of the completed form to your agent, your medical providers, and your lawyer.
- * Exceptions: Your agent may not stop you from eating or drinking as you want. They also cannot agree to voluntary admission to a state institution; voluntary sterilization; withholding life-sustaining treatment if you are pregnant, unless it will severely harm you; or psychosurgery.

PART I. DURABLE POWER OF ATTORNEY FOR HEALTH CARE

Name (Principal's Name): _____

DOB: _____

Address: _____

The durable power of attorney for healthcare form names your agent(s) and, if you wish, sets limits on what your agent can decide.

I choose the following person(s) as agent(s) if I have lost capacity to make health care decisions (cannot make health care decisions for myself). (If you choose more than one person, they will become your agent in the order written, unless you indicate otherwise.)

A. Choosing Your Agent:

Agent: I appoint the person named _____, who resides at _____, and whose phone number is _____ to be my agent to make health care decisions for me.

Alternate Agent: If the person above is not able, willing, or available, I appoint the person named _____, who resides at _____, and whose phone number is _____ to be my alternate agent.

If no one listed above can make decisions for you, a surrogate will be assigned in the order written in law (spouse, adult child, parent, sibling, etc.), and will have the same powers as an agent. If there is no surrogate, a court appointed guardian may be assigned.

B. Limiting Your Agent's Authority or Providing Additional Instructions

When you can no longer make your own health care decisions, your agent will be able to make decisions for you. Please review the Disclosure Statement that is attached to this advance directive for examples of how you may want to advise your agent.

You may write in limits or additional instructions below or attach additional pages.

I have attached _____ additional pages titled "Additional wishes for my Durable Power of Attorney for Health Care" to express my wishes.

II. LIVING WILL

If you would like to provide written guidance to your agent, surrogate, and/or medical practitioners in making decisions about life sustaining medical treatment if you cannot make your own decisions, you may complete the options below.

CHOOSE ITEM A OR B. Initial your choice:

If I suffer from an advanced life-limiting, incurable and progressive condition:

_____ **A. I wish to have all attempts at life-sustaining treatment** (within the limits of generally accepted health care standards) to try to extend my life as long as possible, no matter what burdens, costs or complications may occur.

OR

_____ **B. I do NOT wish to have any life-sustaining treatment attempted that I would consider to be excessively burdensome or that would not have a reasonable hope of benefit for me.** I wish to receive only those forms of life-sustaining treatment that I would not consider to be excessively burdensome AND that have a reasonable hope of benefit for me. **The following are situations that I would consider excessively burdensome:** (Cross out / initial any of the below statements # 1-4 if you disagree.)

_____ 1. I do not wish to have life-sustaining treatment attempted if I am actively dying (medical treatment will only prolong my dying).

_____ 2. I do not wish to have life-sustaining treatment attempted if I become permanently unconscious with no reasonable hope of recovery.

_____ 3. I do not wish to have life-sustaining treatment attempted if I suffer from an advanced life-limiting, incurable and progressive condition and if the likely risks and burdens of treatment would outweigh the expected benefits.

_____ 4. Other situations that I would consider excessively burdensome if I suffer from an advanced life-limiting, incurable and progressive condition: (I have attached _____ additional pages titled "Living Will Burdens"):

In these situations (if I have initialed them), I wish for comfort care only. I understand that stopping or starting treatments to achieve my comfort, including stopping medically-administered nutrition and hydration, may be a way to let me to die when the treatments would be excessively burdensome for me.

III. SIGNATURE

THIS ADVANCE DIRECTIVE MUST BE SIGNED BY TWO WITNESSES OR A NOTARY PUBLIC OR A JUSTICE OF THE PEACE.

Alternative Number 1: Sign before witnesses.

I have received, reviewed, and understood the disclosure statement, and I have completed the durable power of attorney for health care and/or living will consistent with my wishes. I have attached _____ pages to better express my wishes.

Signed this _____ day of _____, 20____.

Principal's Signature: _____

WITNESSES:

We declare that the principal appears to be of sound mind and free from duress at the time this advance directive is signed and that the principal affirms that the principal is aware of the nature of the directive and is signing it freely and voluntarily.

Signature of Witness 1: _____

Address: _____

Signature of Witness 2: _____

Address: _____

Alternative Number 2: Sign before a notary public or justice of the peace.

I have received, reviewed, and understood the disclosure statement, and I have completed the durable power of attorney for health care and/or living will consistent with my wishes. I have attached _____ pages to better express my wishes.

Signed this _____ day of _____, 20____.

Principal's Signature: _____

CERTIFICATE OF ACKNOWLEDGMENT OF NOTARY PUBLIC OR JUSTICE OF THE PEACE

STATE OF NEW HAMPSHIRE

COUNTY OF _____

The foregoing advance directive was acknowledged before me this _____ day of _____, 20____, by _____ (the "Principal").

Notary Public/Justice of the Peace
My commission expires: _____

CHAPTER 11

FORM 5: PROVIDERS ORDERS FOR LIFE SUSTAINING TREATMENT

FORM SAYS STARTING IMMEDIATELY DO NOT TRY SOME HEALTH CARE

The Providers Orders For Life Sustaining Treatment form (often called the “POLST” form) lets a person do the serious 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 outside a hospital or other facility, but it can be used in these places too. Some call this the “Physicians Orders” form. This book’s form is a standard form issued by the state. Most states have a similar form. The POLST form has mostly replaced the old “Do-Not-Resuscitate form” which can still be used but just covers resuscitation. A few doctors recommend the old form be used and people can get a “Portable Do Not Resuscitate Order” from their doctor on pink paper.

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. Note, if a person falls ill even if they have done this form they are still usually taken to get pain relief and other comfort care. But this form is rarely done since these kinds of health situations often don’t occur, it can be stressful to decide these issues, 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 yellow 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.

New Hampshire POLST Form: A Portable Medical Order

Health care providers should complete this form only after a conversation with their patient or the patient's representative. The POLST decision-making process is for patients who are at risk for a life-threatening clinical event because they have a serious life-limiting medical condition, which may include advanced frailty (www.polst.org/guidance-appropriate-patients-pdf).

Patient Information.

Having a POLST form is always voluntary.

This is a medical order, not an advance directive. For information about POLST and to understand this document, visit: www.polst.org/form

Patient First Name: _____
Middle Name/Initial: _____ Preferred name: _____
Last Name: _____ Suffix (Jr, Sr, etc): _____
DOB (mm/dd/yyyy): ____/____/____ State where form was completed: _____
Gender: ☐ M ☐ F ☐ X Social Security Number's last 4 digits (optional): xxx-xx-____

A. Cardiopulmonary Resuscitation Orders. Follow these orders if patient has no pulse and is not breathing.

Pick 1	☐ YES CPR: Attempt Resuscitation, including mechanical ventilation, defibrillation and cardioversion. (Requires choosing Full Treatments in Section B)	☐ NO CPR: Do Not Attempt Resuscitation. (May choose any option in Section B) <i>This will constitute a DNR order and no separate DNR order will be required. RSA 137-J:26 V(b).</i>
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B. Initial Treatment Orders. Follow these orders if patient has a pulse and/or is breathing.

Reassess and discuss interventions with patient or patient representative regularly to ensure treatments are meeting patient's care goals. Consider a time-trial of interventions based on goals and specific outcomes.

Pick 1	☐ Full Treatments (required if choose CPR in Section A). Goal: Attempt to sustain life by all medically effective means. Provide appropriate medical and surgical treatments as indicated to attempt to prolong life, including intensive care.
	☐ Selective Treatments. Goal: Attempt to restore function while avoiding intensive care and resuscitation efforts (ventilator, defibrillation and cardioversion). May use non-invasive positive airway pressure, antibiotics and IV fluids as indicated. Avoid intensive care. Transfer to hospital if treatment needs cannot be met in current location.
	☐ Comfort-focused Treatments. Goal: Maximize comfort through symptom management; allow natural death. Use oxygen, suction and manual treatment of airway obstruction as needed for comfort. Avoid treatments listed in full or select treatments unless consistent with comfort goal. Transfer to hospital only if comfort cannot be achieved in current setting.

C. Additional Orders or Instructions. These orders are in addition to those above (e.g., blood products, dialysis).

[EMS protocols may limit emergency responder ability to act on orders in this section.]

D. Medically Assisted Nutrition (Offer food by mouth if desired by patient, safe and tolerated)

Pick 1	☐ Provide feeding through new or existing surgically-placed tubes	☐ No artificial means of nutrition desired
	☐ Trial period for artificial nutrition but no surgically-placed tubes	☐ Discussed but no decision made (standard of care provided)

E. SIGNATURE: Patient or Patient Representative (eSigned documents are valid)

I understand this form is voluntary. I have discussed my treatment options and goals of care with my provider. If signing as the patient's representative, the treatments are consistent with the patient's known wishes and in their best interest.

 (required)		The most recently completed valid POLST form supersedes all previously completed POLST forms.
If other than patient, print full name:	Authority:	

F. SIGNATURE: Health Care Provider (eSigned documents are valid)

Verbal orders are acceptable with follow up signature.

I have discussed this order with the patient or his/her representative. The orders reflect the patient's known wishes, to the best of my knowledge. [Note: Only licensed health care providers authorized by law to sign POLST form in state where completed may sign this order]

 (required)	Date (mm/dd/yyyy): Required ____/____/____	Phone #: (____) _____
Printed Full Name:		License/Cert. #:
Supervising physician signature:	☐ N/A	License #:

Patient Full Name:

Contact Information (Optional but helpful)

Patient's Emergency Contact. (Note: Listing a person here does **not** grant them authority to be a legal representative. Only an advance directive or state law can grant that authority.)

Full Name:

- ☐ Legal Representative
☐ Other emergency contact

Phone #:

Day: ()

Night: ()

Primary Care Provider Name:

Phone:

()

☐ Patient is enrolled in hospice

Name of Agency:

Agency Phone: ()

Form Completion Information (Optional but helpful)

Reviewed patient's advance directive to confirm
no conflict with POLST orders:
(A POLST form does not replace an advance
directive or living will)

- ☐ Yes; date of the document reviewed: _____
☐ Conflict exists, notified patient (if patient lacks capacity, noted in chart)
☐ Advance directive not available
☐ No advance directive exists

Check everyone who
participated in discussion:

- ☐ Patient with decision-making capacity ☐ Court Appointed Guardian ☐ Parent of Minor
☐ Legal Surrogate / Health Care Agent ☐ Other: _____

Professional Assisting Health Care Provider w/ Form Completion (if applicable):

Date (mm/dd/yyyy):

Phone #:

Full Name:

/ /

()

This individual is the patient's: ☐ Social Worker ☐ Nurse ☐ Clergy ☐ Other:

Form Information & Instructions

- **Completing a POLST form:**
 - Provider should document basis for this form in the patient's medical record notes.
 - Patient representative is determined by applicable state law and, in accordance with state law, may be able to execute or to void this POLST form only if the patient lacks decision-making capacity.
 - Only licensed health care providers authorized to sign POLST forms in New Hampshire can sign this form.
 - Original (if available) is given to patient; provider keeps a copy in medical record.
 - Last 4 digits of SSN are optional but can help identify / match a patient to their form.
 - If a translated POLST form is used during conversation, attach the translation to the signed English form.
- **Using a POLST form:**
 - Any incomplete section of POLST creates no presumption about patient's preferences for treatment. Provide standard of care.
 - No defibrillator (including automated external defibrillators) or chest compressions should be used if "No CPR" is chosen.
 - For all options, use medication by any appropriate route, positioning, wound care and other measures to relieve pain and suffering.
- **Reviewing a POLST form:** This form does not expire but should be reviewed whenever the patient:
 - (1) is transferred from one care setting or level to another;
 - (2) has a substantial change in health status;
 - (3) changes primary provider; or
 - (4) changes his/her treatment preferences or goals of care.
- **Modifying a POLST form:** This form cannot be modified. If changes are needed, void form and complete a new POLST form.
- **Voiding a POLST form:**
 - **If a patient or patient representative (for patients lacking capacity) wants to void the form:** destroy paper form and contact patient's health care provider to void orders in patient's medical record.
 - **For health care providers:** destroy patient copy (if possible), note in patient record form is voided.
- **Additional Forms.** Can be obtained by visiting <https://healthynh.org/initiatives/advance-care-planning/order-form/>.
- As permitted by law, this form may be added to a secure electronic registry so health care providers can find it.

For more information, please call:
 Foundation for Healthy Communities
 Healthcare Decisions / Advance Directives
 (603) 225-0900 / www.healthynh.org

For Barcodes / ID Sticker

CHAPTER 12

FORM 6: STATUTORY 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 law at N.H. Rev. Stat. § 564-E:301.

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" (also called the "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, see records, and more. This form can avoid more serious legal options like a guardianship of an adult at court. A person who isn't incapacitated can overrule or fire their Agent anytime.

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. The person must also sign on the first page after the part giving information about the form. Later before an Agent named in the form can use the form they must sign the "Agent Acknowledgment" part to show they understand things. 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 cancelled. Some banks may also later ask the Agent to sign the form found at N.H. Rev. Stat. § 564-E:302.

NEW HAMPSHIRE STATUTORY POWER OF ATTORNEY

(NH Rev. Stat. 564-E:301)

INFORMATION CONCERNING THE POWER OF ATTORNEY

THIS IS AN IMPORTANT LEGAL DOCUMENT. BEFORE SIGNING THIS DOCUMENT YOU SHOULD KNOW THESE IMPORTANT FACTS:

Notice to the Principal: As the "Principal" you are using this Power of Attorney to grant power to another person (called the "Agent") to make decisions, including, but not limited to, decisions concerning your money, property, or both, and to use your money, property, or both on your behalf. If this Power of Attorney does not limit the powers that you give to your Agent, your Agent will have broad and sweeping powers to sell or otherwise dispose of your property, and to spend your money without advance notice to you or approval by you. Unless you have expressly provided otherwise in this Power of Attorney, your Agent will have these powers before you become incapacitated, and unless you have expressly provided otherwise in this Power of Attorney, your Agent will continue to have these powers after you become incapacitated. You have the right to retain this Power of Attorney and to release it later or to request that another person retain this Power of Attorney on your behalf and release it only if one or more conditions specified in advance by you are satisfied. You have the right to revoke or take back this Power of Attorney at any time, so long as you are of sound mind.

If there is anything about this Power of Attorney that you do not understand, you should seek professional advice.

Principal's Signature: _____ Date: _____

1. DESIGNATION OF AGENT

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

Name of Agent: _____

Agent's Address: _____

2. DESIGNATION OF SUCCESSOR AGENT(S) (OPTIONAL)

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

Name of Successor Agent: _____

Successor Agent's Address: _____

3. REVOCATION OF EXISTING POWERS OF ATTORNEY

(Initial the following statement if it is your choice.)

_____ This Power of Attorney revokes all existing powers of attorney, except for powers of attorney relating to health care, previously executed by me.

4. GRANT OF GENERAL AUTHORITY

(Initial beside your choice of A or B, but **not** both.)

_____ A. I grant my agent **general authority to act for me in all matters**, including, without limitation, all of the subjects enumerated in B below.

_____ B. I grant my agent **general authority over the following subjects**:
(Initial each subject you want to include in the agent's general authority.)

- _____ Real Property as defined in RSA 564-E:204
- _____ Tangible Personal Property as defined in RSA 564-E:205
- _____ Stocks and Bonds as defined in RSA 564-E:206
- _____ Commodities and Options as defined in RSA 564-E:207
- _____ Banks and Other Financial Institutions as defined in RSA 564-E:208
- _____ Operation of Entity or Business as defined in RSA 564-E:209
- _____ Insurance and Annuities as defined in RSA 564-E:210
- _____ Estates, Trusts and Other Beneficial Interests as defined in RSA 564-E:211
- _____ Claims and Litigation as defined in RSA 564-E:212
- _____ Personal and Family Maintenance as defined in RSA 564-E:213
- _____ Benefits from Governmental Programs or Civil or Military Service as defined in RSA 564-E:214
- _____ Retirement Plans as defined in RSA 564-E:215
- _____ Taxes as defined in RSA 564-E:216
- _____ Digital Assets as defined in RSA 554-A:2(10)

5. GRANT OF SPECIFIC AUTHORITY (OPTIONAL)

(Initial each subject you want to include in the agent's authority. CAUTION: As to some of the following subjects, granting your agent authority 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.)

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

_____ Create, amend, revoke, or terminate an inter vivos trust

(If you have granted your agent the authority to create, amend, revoke, or terminate an inter vivos trust, then initial the following statement if it is your choice.)

_____ My agent may create, amend, revoke, or terminate an inter vivos trust to benefit himself or herself or any individual to whom my agent owes a legal obligation of support.

_____ Make a gift, subject to the limitations of RSA 564-E:217

(If you have granted your agent the authority to make a gift, then as to each of the following statements, initial beside it if it is your choice.)

_____ My agent may make a gift, even if it will leave me without sufficient assets or income to provide for my care without relying on Medicaid, other public assistance or charity.

_____ My agent may make a gift to himself or herself and to any individual to whom my agent owes a legal obligation of support.

_____ Create or change rights of survivorship

(If you have granted your agent the authority to create or change rights of survivorship, then initial the following statement if it is your choice.)

_____ My agent may create or change rights of survivorship to benefit himself or herself or any individual to whom my agent owes a legal obligation of support.

_____ Create or change a beneficiary designation

(If you have granted your agent the authority to create or change a beneficiary designation, then initial the following statement if it is your choice.)

_____ My agent may create or change a beneficiary designation to benefit himself or herself or any individual to whom my agent owes a legal obligation of support.

_____ Reject, renounce, disclaim, release, or consent to a reduction in or modification of my share in, or a payment to me from, an estate, trust, or other beneficial interest, to benefit my agent or any individual to whom my agent owes a legal obligation of support

_____ Delegate authority granted under this Power of Attorney to another person

_____ Waive my right to be a beneficiary of a joint and survivor annuity, including a survivor benefit under a retirement plan

(If you have granted your agent the authority to waive your right to be a beneficiary of a joint and survivor annuity, including a survivor benefit under a retirement plan, then initial the following statement if it is your choice.)

_____ My agent may waive my right to be a beneficiary of a joint and survivor annuity, including a survivor benefit under a retirement plan, to benefit himself or herself or any individual to whom my agent owes a legal obligation of support.

_____ Exercise the fiduciary power(s) that I have the authority to delegate as specified in the "Special Instructions" in Paragraph 6 of this Power of Attorney

_____ Exercise authority over the content of electronic communication sent or received by me pursuant to RSA 554-A:9

_____ Exercise authority with respect to intellectual property, including, without limitation, copyrights, contracts for payment of royalties, and trademarks

6. SPECIAL INSTRUCTIONS (OPTIONAL)

(Here you may include special instructions. You may leave this Paragraph blank. You may attach additional pages as necessary.) _____

7. EFFECTIVE DATE AND AUTHORITY OF AGENT

This Power of Attorney is effective immediately unless I have stated otherwise in the Special Instructions in Paragraph 6 of this Power of Attorney. An agent (including successor agent) named in this Power of Attorney will have no authority to act as my agent until he or she has signed and affixed to this Power of Attorney an acknowledgment that is substantially the same as the Acknowledgment at the end of this Power of Attorney.

8. GOVERNING LAW

This Power of Attorney shall be governed by the laws of the State of New Hampshire.

9. RELIANCE ON THIS POWER OF ATTORNEY

Any person, including my agent, may rely upon this Power of Attorney if it is acknowledged before a notary public or other individual authorized to take acknowledgments (or a copy of the acknowledged Power of Attorney), unless that person knows it is void, invalid, or terminated.

SIGNATURE AND ACKNOWLEDGMENT

(You must date and sign this Power of Attorney. If you are physically unable to sign, it may be signed by someone else writing your name, in your presence and at your express direction. This Power of Attorney must be acknowledged before a notary public or other individual authorized by law to take acknowledgments.)

Principal's Signature: _____ Date: _____

Principal's Printed Name: _____

Principal's Address: _____

Notary:

STATE OF NEW HAMPSHIRE

COUNTY OF _____

The foregoing Power of Attorney was acknowledged before me on the _____ day of _____, 20____, by _____, known to me or satisfactorily proven to be the person named herein

Signature of Notarial Officer: _____

Title (and Rank): _____

My commission expires: _____

AGENT ACKNOWLEDGMENT

Notice to Agent: You will have no authority to act as agent under this Power of Attorney until you sign and affix this acknowledgment to the Power of Attorney.

I, _____, have read the attached power of attorney and am the person identified as the agent for the principal.

I hereby acknowledge that when I act as agent I am given power under the power of attorney to make decisions about money, property, or both belonging to the principal, and to spend the principal's money, property, or both on the principal's behalf, in accordance with the terms of the power of attorney.

When acting as agent, I have duties (called "fiduciary duties") to act in accordance with the principal's reasonable expectations to the extent actually known by me and, otherwise, in the principal's best interest, to act in good faith, and to act only within the scope of authority granted in the power of attorney, as well as other duties imposed by law to the extent not provided otherwise in the power of attorney.

As an agent, I am not entitled to use the money or property for my own benefit or to make gifts to myself or others unless the power of attorney specifically gives me authority to do so.

As an agent, my authority under the power of attorney will end when the principal dies and I will not have authority to manage or dispose of any property or administer the estate of the principal.

If I violate a fiduciary duty under the power of attorney, I may be liable for damages and may be subject to criminal prosecution.

If there is anything about this power of attorney, or my duties under it, that I do not understand, I understand that I should seek professional advice.

Agent's Signature: _____ Date: _____

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 New Hampshire 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 usually from lawyers when 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 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 modify the form to add 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. The person must also sign on the first page after the part giving information about the form. Later before the Agent named in the form can use the form they must sign the “Agent Acknowledgment” part to show they understand things. To cancel the form a person usually tells the Agent and takes back all copies.

POWER OF ATTORNEY FOR MINOR CHILD

INFORMATION CONCERNING THE POWER OF ATTORNEY

THIS IS AN IMPORTANT LEGAL DOCUMENT. BEFORE SIGNING THIS DOCUMENT YOU SHOULD KNOW THESE IMPORTANT FACTS:

Notice to Principal (the parent signing this Power of Attorney):

As the "Principal," you are using this Power of Attorney to grant power to another person (called the "Agent") to make decisions, including, but not limited to, decisions concerning your money, property, or both, and to use your money, property, or both on your behalf. If this Power of Attorney does not limit the powers that you give to your Agent, your Agent will have broad and sweeping powers to sell or otherwise dispose of your property, and to spend your money without advance notice to you or approval by you. Unless you have expressly provided otherwise in this Power of Attorney, your Agent will have these powers before you become incapacitated, and unless you have expressly provided otherwise in this Power of Attorney, your Agent will continue to have these powers after you become incapacitated. You have the right to retain this Power of Attorney and to release it later or to request that another person retain this Power of Attorney on your behalf and release it only if one or more conditions specified in advance by you are satisfied. You have the right to revoke or take back this Power of Attorney at any time, so long as you are of sound mind. If there is anything about this Power of Attorney that you do not understand, you should seek professional advice.

Principal's Signature: _____ Date: _____

1. Identification of Parent and Child.

I, _____, currently residing at _____
and having a phone number of _____ am
the parent of the minor child named _____
born on _____. 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 NEW HAMPSHIRE

COUNTY OF _____

The foregoing Power of Attorney was acknowledged before me on the _____ day of _____, 20____, by _____ the Principal, known to me or satisfactorily proven to be the person named herein.

Signed: _____

Title (and Rank): _____

My Commission Expires: _____

AGENT ACKNOWLEDGEMENT

I, _____, have read the attached power of attorney and am the person identified as the agent for the principal. I hereby acknowledge that when I act as agent, I am given power under the power of attorney to make decisions about money, property, or both belonging to the principal, and to spend the principal's money, property, or both on the principal's behalf, in accordance with the terms of the power of attorney. When acting as agent, I have duties (called "fiduciary duties") to act in accordance with the principal's reasonable expectations to the extent actually known by me and, otherwise, in the principal's best interest, to act in good faith, and to act only within the scope of authority granted in the power of attorney, as well as other duties imposed by law to the extent not provided otherwise in the power of attorney. As an agent, I am not entitled to use the money or property for my own benefit or to make gifts to myself or others unless the power of attorney specifically gives me the authority to do so. As an agent, my authority under the power of attorney will end when the principal dies and I will not have authority to manage or dispose of any property or administer the estate of the principal. If I violate a fiduciary duty under the power of attorney, I may be liable for damages and may be subject to criminal prosecution. If there is anything about the power of attorney, or my duties under it, that I do not understand, I understand that I should seek professional advice.

Agent's Signature: _____ Date: _____

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. Some people put funeral and related instructions in their Will instead, but this is fairly uncommon.

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). About half of people now do cremation which is cheaper than burial. Note, a person can skip either half of the form and only name an Agent or only give some instructions.

PERSON SHOULD SIGN FORM IN FRONT OF 2 WITNESSES

Under state law a person can just sign the document but most people also have 2 persons act as witnesses, and some funeral homes and doctors may not obey the form if 2 witnesses aren’t used. 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.

This Designated Agent shall be my agent with power and authority to act on my behalf, but only to the extent provided in this document. I hereby grant the Designated Agent the full right, power, and authority to do every act, deed, and thing necessary or advisable to be done regarding the above power, as fully as I could do if personally present and acting. The Designated Agent is not liable for losses from a judgment error made in good faith.

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 he/she 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: _____

State law at New Hampshire Revised Statutes § 290:17 says in part,
"Custody and Control Generally. – The custody and control of the remains of deceased residents of this state are governed by the following provisions: I. If the subject has designated a person to have custody and control in a written and signed document, custody and control belong to that person. The person designated by the subject shall be entitled to no compensation or reimbursement of expenses related to the custody and control of the subject's body[.]"

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 Hillsborough County, New Hampshire, 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 _____.

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 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 New Hampshire law to apply to this Will.

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, and all without ademption.

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

If context permits the terms Executor and Personal Representative and Administrator are interchangeable, Guardian of the Estate and Conservator and Guardian of Property and Custodian are interchangeable, and residue and residuary are interchangeable. By this provision any of these persons legally stand in the same place and may 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 New Hampshire Uniform Transfers to Minors Act or a similar law anywhere, and they may pick the Custodian including themselves.

TESTATOR

IN WITNESS WHEREOF, I hereunto set my hand and, in the presence of 2 witnesses, declare this to be my Will, on the 22nd day of June, 2022 .

Paul Samuel Maxwell

Testator's Signature

Paul Samuel Maxwell

Testator's Printed Name

WITNESSES

Signed and declared by the said Testator as and for the Will of Testator, in the presence of us, the Witnesses, who at the Testator's request, in the Testator's presence, and in the presence of each other, hereunto subscribe our names acting as witnesses.

Eve Mable Rogers

Witness Signature

Eve Mable Rogers, 14 2nd St., Dover, NH 03053

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 Rockingham County, New Hampshire, 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, Concord, New Hampshire
to Kenneth Alan Ford .

I give all real property and fixtures I own in Merrimack County, New Hampshire 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 hereby name Amanda Sue Brubaker my sister to be if needed the Guardian of the Person of any minor child of mine to have care, authority, custody, and other control of them, including with the minor child being their ward. I also name this same person to be if needed Guardian of the Estate for any minor child of mine or other minor person and to have care, control, and power over their property, money, and estate.

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 New Hampshire law to apply to this Will.

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, and all without ademption.

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.

If context permits the terms Executor and Personal Representative and Administrator are interchangeable, Guardian of the Estate and Conservator and Guardian of Property and Custodian are interchangeable, and residue and residuary are interchangeable. By this provision any of these persons legally stand in the same place and may 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 New Hampshire Uniform Transfers to Minors Act or a similar law anywhere, and they may pick the Custodian including themselves.

TESTATOR

IN WITNESS WHEREOF, I hereunto set my hand and, in the presence of 2 witnesses, declare this to be my Will, on the 30th day of December, 20 21.

Paul Brian Kent

Testator's Signature

Paul Brian Kent

Testator's Printed Name

WITNESSES

Signed and declared by the said Testator as and for the Will of Testator, in the presence of us, the Witnesses, who at the Testator's request, in the Testator's presence, and in the presence of each other, hereunto subscribe our names acting as witnesses.

Olivia Joy Pawlenty

Witness Signature

Olivia Joy Pawlenty, 82 Forest Road, Concord, New Hampshire 03501

Printed Name and Residence of Witness

Roy Felix Pawlenty

Witness Signature

Roy Felix Pawlenty, 82 Forest Road, Concord, New Hampshire 03501

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, Amy Dorothy Smith, of Hillsborough County, New Hampshire, 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 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 Gillette, New Hampshire.

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
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 New Hampshire law to apply to this Will.

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, and all without ademption.

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

If context permits the terms Executor and Personal Representative and Administrator are interchangeable, Guardian of the Estate and Conservator and Guardian of Property and Custodian are interchangeable, and residue and residuary are interchangeable. By this provision any of these persons legally stand in the same place and may 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 New Hampshire Uniform Transfers to Minors Act or a similar law anywhere, and they may pick the Custodian including themselves.

TESTATOR

IN WITNESS WHEREOF, I hereunto set my hand and, in the presence of 2 witnesses, declare this to be my Will, on the 21st day of June, 2021.

Amy Dorothy Smith

Testator's Signature

Amy Dorothy Smith

Testator's Printed Name

WITNESSES

Signed and declared by the said Testator as and for the Will of Testator, in the presence of us, the Witnesses, who at the Testator's request, in the Testator's presence, and in the presence of each other, hereunto subscribe our names acting as witnesses.

John Elliot Potter

Witness Signature

John Elliot Potter, 2 Spruce St, Sherwood, NH 03050

Printed Name and Residence of Witness

Ann Paula Blom

Witness Signature

Ann Paula Blom, 70 Rocky Road, Clarksville, NH 03028

Printed Name and Residence of Witness

SELF-PROVING AFFIDAVIT

STATE OF NEW HAMPSHIRE

COUNTY OF HILLSBOROUGH

The foregoing instrument was acknowledged before me this
21st day of June, 2021 (day/date) by
Amy Dorothy Smith, the Testator; and
John Elliot Potter and Ann Paula Blom, the Witnesses, who under
oath do swear as follows:

1. The Testator signed the instrument as the Testator's Will or expressly directed another to sign for the testator.
2. This was the Testator's free and voluntary act for the purposes expressed in the Will.
3. Each Witness signed at the request of the Testator, in the Testator's presence, and in the presence of the other Witness.
4. To the best of my knowledge, at the time of the signing the Testator was at least 18 years of age, or if under 18 years was a married person, and was of sane mind and under no constraint or undue influence.

Amy Dorothy Smith

Signature of Testator

John Elliot Potter

Signature of Witness

Ann Paula Blom

Signature of Witness



Eddie L. Farrow

Signature of Notarial Officer

Notary Public, State of New Hampshire

My Commission Expires: _____