

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

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

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PUBLICATION DATA

(informal, library may use different data)

Names: Russell, Alex, 1972- author ; Maxwell, Robert, 1960- author

Title: Davenport's New Mexico Wills And Estate Planning Legal Forms

Other Titles: Davenport's Wills

Description: Davenport Publishing 2023

Suggested Identifiers: 9798880185061, LCCN 2021909030, 9798748423373

Subjects: LCSH: Wills--United States;
Wills--United States--Forms;
Estate Planning--United States;
Legal Forms

Classification: LFF KF755 .C55 2022 (or as library chooses)
DDC 346.73 Rus--dc23 (or as library chooses)

9 8 7 6 5 4 3 2 1 0 0 0 0 0 2 3

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CHAPTER 1

BOOK BASICS AND LIST OF FORMS

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

This short book helps people in New Mexico do legal documents to help control their health care, property, money, children, funeral, and more if later they're absent, sick, or dead (this is usually called Estate Planning). People have a right to control these matters so judges, doctors, and other people mostly just try to determine: **"Based on what a person wrote what did they likely want done?"**

BOOK HAS 9 READY TO USE LEGAL FORMS FOR NEW MEXICO

This book has 9 ready to use legal forms made for New Mexico (but most people use just a few forms).

WILL RELATED FORMS

Form 1. Will (Standard) – a Will (also called a Last Will And Testament) lets a person control things later after their death like who 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 if needed (like if both parents die) care for a minor child under age 18 and a Conservator to manage and spend a child's money and property.

Form 3. Self-Proving Affidavit – often done with a Will to later help show it was signed right so is valid.

Form 4. Tangible Personal Property List – lets a person later easily add some small gifts to their Will.

HEALTH CARE FORMS

Form 5. Optional Advance Health-Care Directive – lets a person name someone to be Agent to control health care if the person is later incapacitated and, also, lets a person say if they're later terminally ill or permanently unconscious and incapacitated to stop certain care (many people call this a "Living Will").

Form 6. Medical Orders For Scope Of Treatment And Do Not Resuscitate – these are 2 forms but do same act of telling paramedics and others immediately from now on don't try certain health care like C.P.R.

GIVING POWER FORMS

Form 7. Statutory Form 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, borrow, get records, and sell items.

Form 8. Power Of Attorney Over Minor Children – lets a parent share power over a child under age 18 with a person including over health care and school issues so the person can later act if needed.

Form 9. Cremation Authorization And Other Requests – lets a person pick someone in particular to control their bodily remains after their death (instead of closest family) and give instructions about all this.

BOOK ALSO HAS FORM TO TELL HELPFUL THINGS TO FAMILY AND FRIENDS

Many lawyers, banks, and financial planners give out an unofficial form to tell family and friends helpful things on property, money, debts, helpful tips, last wishes, and more. This book's Chapter 2 has such a form.

ESTATE PLANNING OFTEN IS NOT VITAL AND WORTH SPENDING MUCH ON

Despite what many people think Estate Planning often does not greatly change costs, taxes, delays, and work involved in these areas, so it often is not vital and worth spending a lot of money and energy on. Benefits seem low for young people since only about 4% of people die by age 40 (and mostly it's from a long illness so these people have time to legally prepare), and only 0.13% of children before age 18 have both parents die so need legal help. See *Social Security Tables: Felicitie Bell; Parent Mortality Census SIPP Paper #288*. Instead of Estate Planning most people spend more time and money on getting good life insurance.

NEW MEXICO ESTATE PLANNING LAW COVERS MOST PEOPLE LIVING HERE

This book is only for New Mexico 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 (called their "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 move. People can stay under a previous state's Estate Planning laws after moving if people always plan to leave the new state. For example, people who move to a state for years for travel, school, projects, or military might keep legal ties to their old state. People often do health care forms to match the state a health facility is in. Most immigrants of any kind can do Estate Planning here.

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

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 main ways New Mexico law is different. This book can't cover all legal issues but should suit most people without some strange situations or wishes. Strange situations or wishes that may need research or a lawyer include: a) strange gift wishes for property and money, b) wealth over \$5 million, c) big medical concerns like extreme age, d) property or money going to a person with a disability or special needs, and e) wish to move or hide assets to qualify for government help.

LEGAL FORMS CAN HELP MANY AND THIS BOOK HAS "STANDARD FORMS"

Legal forms are good at most things involved in Estate Planning and do make binding legal documents. Instead of using legal forms a lawyer can be used for Estate Planning but this can be costly, take months of work, and they can make mistakes. In life people often pick a cheaper option. Importantly, often a hospital, charity, agency, or 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 even if written by a lawyer. This book does provide standard forms if they exist. If a person signs a document in a foreign language it is usually binding.

FORMS MUST BE PROPERLY FILL IN AND SIGNED AND THEN USED

When filling out a legal form except for signatures all other parts can be filled in by someone not doing the form with good handwriting or typing. After a form is done often people try to keep the original and hand out copies. Some people have everyone sign multiple copies to have multiple copies with ink signatures. To be 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. A notary (also called a “notary public”) is at some banks, brokers, insurance agents, courts, law offices, libraries, and mailing-copying centers, and using a phonebook to call ahead about a notary is recommended. The words “subscribe” and “execute” means a person signed a document, and “acknowledgment” means a person said a signature was theirs. In a form the term “respectively” means “in the order just stated”.

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

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

- A “Codicil” can modify a Will but it is easier and legally safer to just rewrite the whole Will.
- Some people do a “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.
- Some people do a “Pet Trust” to help a pet, but it’s easier to just give money in Will to person given a pet.
- Though separate forms exist usually organ donation in handled in drivers license or state ID paperwork.

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

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

NO FEDERAL, NEW MEXICO, OR OTHER TAX IS OWED UPON A DEATH

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

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

The state of New Mexico has ended the Estate Tax it use to apply if residents died with a lot of money and property. No other taxes are owned upon a death here. In rare cases people with valuable tangible property in another state (like over \$5,000,000) may at death have to pay that state’s estate tax.

A person’s family or Executor may have to file normal income tax returns to cover the partial year a decedent lived and earned income in before they died. Life insurance payouts are usually tax free.

CHAPTER 2

TERMS, PROPERTY LAW, AND HELPFUL INFORMATION FORM

THERE ARE BASIC TERMS AND IDEAS IN ESTATE PLANNING

Some legal terms and ideas are basic to Estate Planning.

- “Estate Planning” is about people doing legal documents to control things if later absent, sick, or dead. After a document is done people are still free to sell or transfer property, instruct doctors, or change forms.
- A “person doing a legal document” and “doing a form” means the form is for and affects that person.
- 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” means to be alive after someone died. The term “descendants” or “issue” usually means a person’s children and grandchildren.
- A person named in a Will to handle things after someone’s death is called an “Executor”, but if a judge has to pick someone they are called an “Administrator”. The new term “Personal Representative” covers both these terms and this new term is now used in most Wills in New Mexico.
- A person doing a Will is called “Testator” or “Will maker”. Before about 1995 a woman Testator was called a “Testatrix” and woman Executor called an “Executrix” but this is no longer often said or written.
- “Probate” is a legal process to do things after someone’s death like transfer property, handle creditors, and authorize a Guardian. Due to nice changes in law any probate is 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 age 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 called the “New Mexico Statutes”. Each law here is called a “statute” or “section” shown by a “§” or “s” mark. Often a law appears in books with notes which are called “annotations”. A law can be cited a few ways, like: New Mexico Statutes Annotated § 45-2-502, NMSA § 45-2-502, or NM Stat § 45-2-502. Importantly, a legal form written into state law for people to find and use if wanted is called a “statutory form”.

“ESTATE” MEANS PROPERTY OF DECEDENT AND ENTITY HOLDING THINGS

The “estate” or “probate estate” means all property and money of a dead person they owned that at death didn’t automatically start to go to new owners. Estate is also the name for a temporary entity run by an Executor to do things after a death (often this holds all decedent’s stuff, e.g., “Estate of John A. Smith”).

PERSON CAN ONLY GIFT IN A 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. A person is usually free to sell property, gift away, or transfer things even if they are named in a Will, so people should consider if they sold or gave away or lost some property they 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 an owner 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 from joint papers, if all agree to it, joint funds buy a thing, 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) transfer-on-death accounts were used, b) a “designated beneficiary” form was done to name people to get an account or investment, c) real property is held by 2 people as “joint tenants with survivorship” or similar so at a death a surviving person gets things, and d) other allowed arrangements. 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 small thing is missed. When doing a Will people should consider non-probate transfers that will occur automatically on death and consider what will be left. Life insurance also mostly ignores a Will and goes to a named beneficiary, and property in a Trust mostly ignores a Will and goes as Trust papers say.

“HELPFUL INFORMATION” FORM CAN TELL FAMILY AND FRIENDS THINGS

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

ESTATE PLANNING HELPFUL INFORMATION

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

1. Personal Information (Name, Birthdate, Social Security number, special family details, other):

2. Real estate, vehicles, and other major tangible property (especially if people may not find them):

3. Non-tangible assets like stocks, accounts, investments, loans owed you, and business interests:

4. Possible income or insurance like pensions, retirement, disability, insurance, or contracts:

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

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

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

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

CHAPTER 3

WILL BASICS

WILL LETS A PERSON CONTROL THINGS AFTER THEIR DEATH

A Will is a legal document done by a person to control some things after their death. The word can be capitalized or not, so “Will” and “will” are both fine. A person doing a Will is called “Testator” or “Will maker”. For a Will to be valid 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). Note, there is a New Mexico statutory form for a Will but it is seen as out of date and almost no people use it. See *NM Stat § 45-2A-17*.

A WILL MUST BE SIGNED WITH 2 WITNESSES

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

By law a written Will 1) must show it's a Will by its words and 2) the person doing it must sign it in front of at least 2 witnesses who sign it too. See *NM Statutes § 45-2-502*. A Will done without 2 witnesses is not valid even if notarized. A person saying a Will aloud on a video or audio recording with no witnessed writing is not valid. New Mexico unlike some states does not let witnesses be skipped for handwritten Wills.

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

A person to witness a Will must be at least age 18. It is better but not required a witness not be very old, live far away, or be named as Executor, Guardian, or a similar job. Unlike some states in New Mexico a Will is valid if a witness is getting Will gifts, and any Will gifts to a witness are usually carried out fully later. See *NM Statutes § 45-2-505*. But many people to avoid the appearance of misconduct pick witnesses so they or their spouse won't benefit by a Will. Often witnesses are friends, strangers, and distant family.

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

The person doing a Will should sign it with at least 2 witnesses who then also sign while all are in 1 room and see others sign. People showing others an I.D. is not required but common. A Testator need not initial Will pages. A Testator or witness should use their full legal name unless they greatly dislike and rarely use it. Witnesses only read the 1 paragraph they sign. Disabled people who can't sign by hand can see a lawyer. Legally a Testator need not say anything but usually they should personally ask 2 persons to be witnesses, so often a Testator says a thing like, “My name is ____ and this Will I do voluntarily and ask you 2 to witness”.

KEEP WILL IN SAFE PLACE IT CAN BE FOUND

A Will should be kept so it is found within weeks of a death, like in a desk, drawer, safe, with a person, or less often a safe deposit box. It may help to tell people how to get a Will. A few people file a Will while alive at a local district court for safekeeping till they withdraw it or after death a clerk gives it to family or Executor.

NEW WILL USUALLY QUICKLY CANCELS (REVOKES) OLD WILLS

So a new Will is followed old Wills should be canceled (“revoked”). To do this all this book's Wills say this. Or people can revoke an old Will by writing “void” or “cancelled” or “X” on it, usually with a witness to this act. Usually crossing out just part of a Will has no effect. Revoking a Will usually 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 costly insurance from a company to insure against misconduct. A Testator usually doesn’t want a bond since any person the Testator named is trusted and them needing a bond will cost the estate money.

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

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

A WILL NAMES AN EXECUTOR TO DO THINGS AFTER DEATH

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

Most Wills name someone as “Executor” to after a death do things like collect and give decedent’s money and property to new owners, handle decedent’s debts, and do probate. The law gives an Executor many legal powers to do things. If a Will fails to name an Executor a judge can pick a person, but family may argue over who to suggest. The same 1 person can be named to be Executor, Guardian, and other positions.

THE TERM “PERSONAL REPRESENTATIVE” IS NOW USED IN WILLS

The term “Personal Representative” and not Executor is now mostly used in Wills in New Mexico, but these terms mostly mean the same thing. Often any spouse is Executor. Will gifts can go to an Executor.

EXECUTOR CAN BE PAID AND ESTATE PAYS ALL OF EXECUTOR’S COSTS

An Executor can ask to be paid for their work from estate funds, and their pay is whatever a judge later thinks is reasonable. For example, a judge may find an Executor spent 40 hours over 1 year and \$50/hour is fair so pay is \$4000. New Mexico unlike some other states does not pay Executors a percentage of the probate estate. But some Testators do not want any pay at all for an Executor so add a Will line saying this. In reality most Executors later just skip asking for pay to not owe income tax on pay and leave more estate money and property to carry out Will gifts. Costs that an Executor has like insurance, repairs, mortgages, utilities, funeral, attorneys, and probate costs and fees are usually paid for with estate money or property. Any lawyer an Executor hires usually is paid an hourly or fixed sum that a lawyer and Executor agree upon.

EXECUTOR IS PERSON AT LEAST 18 AND SECOND PERSON RARELY NEEDED

A person to be an Executor in New Mexico must be at least age 18 and not have a bad criminal record or similar history so they later seem too unsuitable to a judge. They needn’t be a state resident but being local can make work much easier. Naming 2 people to both be Executor is rare due to risks of arguments or long delay, and since any 1 person named is trusted. People can name a 2nd person to be Executor if the 1st person isn’t later available but many skip this since it’s rarely needed and judge can always name a person. If a fallback person is wanted a Will can say: “or if they’re reasonably unable to serve I name _____ to serve”.

CHAPTER 4

WILL GIFTS INCLUDING RESIDUE CLAUSE

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

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

GIFTING IN A WILL USING SIMPLE WORDS OFTEN IS BEST

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

A PERSON IS MOSTLY FREE TO GIFT THEIR THINGS AS WANTED

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

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

Most Wills have “specific gifts” to gift particular things. Specific gifts can be any property, like “I give boat to Ed Blom” and “I give UBank account #84553873 to Sue Wu”. If a gift is not clear the law assumes all of a kind of thing is given, like “I give jewelry to Ann Po” means all jewelry. But gifting specific property can have surprises like value of items can change, or a Will gift may later fail to occur if property is not owned at death.

IN WILL CAN DO “GENERAL GIFTS” LIKE OF MONEY

Wills can do “general gifts” where what is gifted is not particular property but can be flexibly chosen, like “I give 1 of my 3 cars to Ed Po” which lets an Executor pick which car. The usual general gift is money, like “I give \$5 to Ed Hu”. Money gifts are easy to write, let equal gifts be made, and are legally safer for many reasons. To carry out money gifts an Executor usually uses accounts or sells some property in the estate.

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

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

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

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

CONDITIONS ON WILL GIFTS ARE RARE DUE TO POSSIBLE PROBLEMS

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

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

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

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

The same property or money in a “joint gift” can go to many people to each get a part. For example, “I give boat and all hats to Ann Baxter and Mary Ann Swanson” means each person owns part of every item. People later can split things by agreement or an Executor can decide how to divide items. If a person in a joint gift has died their part usually is left to transfer under a 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” means “by branch” and is about how to spread property and money, and it mostly tries to divide things so each family branch gets an equal share. Most Wills use “lineal descendants” language in a Residue Clause. An example shows how it works:

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

GIFT BENEFICIARIES CAN GET PERCENTAGE RATHER THAN EQUAL SHARE

If a Will gift goes to multiple people the law assumes equal shares, but if wanted percentages can be used to make unequal gifts, like “I give boat 90% to John Smith and 10% to Mary Baker”.

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

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

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.

AFTER A DEATH FAMILIES OFTEN LET PEOPLE TAKE ITEMS UNOFFICIALLY

Many families unofficially let people take items in ways a dead person said, showed with stickers, or wrote on a note, and this is often fine. If people object a judge often has a Will and law be followed but later people can voluntarily retransfer items. Later this book covers how to do gifts with a Tangible Personal Property List.

MOST WILLS SAY FAMILY MAY LATER DO “INFORMAL PROBATE”

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

RESIDUE CLAUSE GIFTING ANYTHING LEFT IS MAIN WAY TO GIFT THINGS

THE RESIDUE CLAUSE IS A CATCH-ALL THAT GIFTS ANYTHING LEFT

Most Wills by the end have a Residue Clause to give property or money left in a person's estate not gifted earlier in a Will or used other ways. All that is left this way is called the "Residue". Many people let this clause handle most things. This avoids all need to list and describe property and money and also has less legal risk.

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

EXAMPLE OF 2 PART RESIDUE CLAUSE:

"RESIDUE CLAUSE: The rest, residue, and remainder of my estate, and anything else, I give to:

a) to Jay Doe my husband who survive me and with persons just named who survive me taking the share of non-survivors, then if anything remains

b) to Sam Doe, Ann Wu, and Pam Ax and if any of those just named do not survive me their part goes to their lineal descendants per stirpes."

In this example things may go to "descendants" so to a person's children and grandchildren, and things may be divided "per stirpes" which means equal among family branches. In this example if Jay Doe has survived he gets everything. If he has died and also Sam Doe hasn't survived but he left 2 children then, legally, Sam's 2 children split the 1/3 share of his (so get 1/6 each) and the other 2 persons in 2nd part (Ann Wu and Pam Ax) get 1/3 each. Usually the first people named in the clause won't die so gets things.

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."

LATER DIVORCE OR MURDER CANCELS WILL GIFTS

New Mexico law says a person divorcing or murdering a Testator usually cancels Will gifts to the person.

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 \$5 to The Red Cross, "I give \$5 to the Farmington Public Library, New Mexico", and "I give \$5 to Wix Church, Hill, TX". People can phone for 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 81 Maxwell Street, Farmington, N.M., 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 Chaves County, New Mexico to Ann Marie Hill " or "I give all furniture and all bank accounts to John Paul Smith".

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" on a map which is recorded in land records of a county, or it may refer to a path around the land borders with various angles, distances, and iron stakes.

CAN LEAVE SOME WILL GIFT LINES BLANK OR WRITE THING LIKE “SKIPPED”

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

MOST LAWS AND WILLS SAY PEOPLE TO GET WILL GIFTS MUST LIVE 5 DAYS

Helpful 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 the need to prove exact time of death (like if people die in 1 accident), and avoids a Will gift or right to something going to someone who then soon dies within days (so an item would have to go through 2 probate proceedings).

SIMPLE WILL WITH MOST GIFTING DONE BY RESIDUE CLAUSE OFTEN IS 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 the children.

INTESTATE LAW CONTROLS THINGS NOT COVERED BY A WILL

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

Local “intestate law” starting at N.M. Statutes § 45-2-102 basically says if a person dies with no valid Will or if anything is left after Will and other transfers are done then certain surviving (living) family get the decedent’s money and property. “Descendants” are a person’s children and grandchildren, and if a person died who’d get an intestate share their descendants by law usually get that share. State law says in order:

- 1) if decedent left a surviving spouse but no surviving descendants (like a child or grandchild), then the spouse gets all property and money of the decedent;
- 2) if decedent left a surviving spouse and also surviving descendants, then the spouse gets all community property and 1/4 of the separate property of the decedent, and the surviving descendants get the rest;
- 3) if decedent left 1 or 2 surviving parents but no surviving spouse or surviving descendants, then the parents get things;
- 4) if decedent left no surviving spouse, no surviving descendants, and no surviving parents, then things go to next closest family starting with decedent’s brothers and sisters and then proceeding from there; and
- 5) in the rare case that none of the above persons survive then things go to the New Mexico government.

CHAPTER 5

DEBT, MARRIAGE, AND CHILD ISSUES

THIS CHAPTER COVERS CERTAIN ISSUES THAT SOME PEOPLE CAN SKIP

This Chapter covers some debt, marriage, and child issues, but some people can skip parts of this.

DEBT ISSUES

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

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

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

Most U.S. states in law have "Family Rights" a decedent's surviving spouse or young children can claim, and this may help them get something even before most debts of decedent are paid and before Will gifts.

First, in many U.S. states a surviving spouse or young children can use the "Exempt Property" right to get some of a decedent's clothing, vehicles, furnishings, and appliances for family to use to live. In New Mexico the exempt property amount is set at \$15,000. See NM Statutes § 45-2-403. Plus, often family can keep more of decedent's small items by claiming a decedent gave them to family or not showing Executor them.

Second, in many U.S. states a surviving spouse or young children have a right to get (or stay in for years) a home owned by a decedent under a "Homestead Law". But New Mexico law does not say this, and it just says a decedent's family can use the "Family Allowance" to get \$30,000 from a decedent's money and property. See NM Statutes § 45-2-404. Of course often a family home is already owned jointly or is community property.

Clearly if a spouse or children use these rights (which can add to a lot) this leaves less property and money of a decedent to do Will gifts or other transfers so may interfere with these. So family don't bother to use Family Rights often a person gives mostly to a spouse or young children (like over 50% and family house).

SECURED DEBTS LIKE MORTGAGE OR VEHICLE LIEN ARE NOT PAID OFF

Laws in most states say do not pay off secured debts on property of a decedent like a house mortgage or vehicle lien even if other debts are paid by Executor or in probate. This avoids using up estate resources on paying big debts. All this book's Will forms say do not usually pay off any secured debts. But if a Testator wants they can 1) put in a Will an order to pay (like, "Executor pay off the house mortgage"), or 2) gift enough money to pay off a secured debt to person getting a thing. Most banks let new owners continue a mortgage.

MARRIAGE ISSUES

“COMMUNITY PROPERTY” LAW APPLIES TO SPOUSES IN NEW MEXICO

Nine states mostly in the West for married people use “Community Property” law, including California, Texas, and New Mexico. Other states use “Separate Property” law. Things can be complex if people recently moved. People can do a pre-marital or post-marital contract from lawyers on community property issues but this is rare.

MARRIED SPOUSES MAY OWN MOST THINGS 50/50 EVEN WAGES AND SALARY

Community Property law says residents if married share 50/50 and have a half-interest in money and property either spouse gets which is related in any major way to physical or mental effort while married. Shared things are called “community property” and all else is called “separate property”. This law is from Spanish and other traditions, seeing marriage like a partnership, and so if a person’s spouse dies the person has something to live on. Most states have laws to give a spouse a lot so they have resources to live on. Often wages, salary, and income related to labor are community property no matter what spouses think. Other kinds of joint ownership can arise in other ways, like by agreement, both spouses paying part of the purchase price, if a gift was to both spouses, or if paperwork says this.

HARD TO PROVE SEPARATE PROPERTY AND NOT COMMUNITY PROPERTY

If a person is married the law presumes property and money is community property (jointly owned) unless it can be proven to be separate property. Good records, separate accounts, or discussing ownership with witnesses can help but is rare. Putting 1 name on an account or title to a thing does not change its nature. A married person often ends up with all of their property and money legally being community property. But some examples of separate property are a gift or inheritance given to 1 spouse, personal injury lawsuit money, engagement and wedding rings, and anything owned before marriage like savings and property. Separate property can come from tracing property and money to previous separate property. If pre-marriage money pays half an item’s price it can be half separate. If pre-marital property is sold the money is separate. But using physical or mental effort while married on separate property can make items be partly community property, like doing repairs or remodeling, managing a business, or actively trading stocks or any collection.

MARRIED PEOPLE FACE ISSUES AND HAVE SOME OPTIONS WHEN GIFTING

Married people face some issues with gifting by Will and other ways things, including as this book has said due to community property, family rights, and other issues. Married people have some options. First, to avoid issues some people just give everything wholly to their spouse by Will or other ways. Second, some people are careful to only gift separate property to persons not their spouse by Will and other ways, and then have all community property go to a spouse. But this can be hard to do with certainty. Third, some people trust if they give most money and property to a spouse and family (like over 90% and a family home) a spouse won’t object or start a lawsuit about a small part of community property a decedent gives to others despite half being legally owned by a spouse. They instead cooperate to do as the Will says.

CHILD ISSUES

WILL CAN NAME “GUARDIAN” TO CARE FOR YOUNG CHILD

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

WILL CAN NAME “CONSERVATOR” TO MANAGE CHILD'S PROPERTY

Since a child till age 18 can't legally control property and money a Will often names a person to manage a child's property including money. This person decides how to use up property and money on a child's costs (like school, living, and health care) till usually age 18 when anything left goes to the child. A judge often holds a yearly hearing on this. In New Mexico a person who is a Guardian of a minor has some power to control their property and money, but if there is a lot usually a judge also authorizes a “Conservator” to act. Some states call this a “Guardian of the Estate”. Any person paying for things can ask to be paid back from a child's funds. As a 2nd option to avoid much work and costs most Wills say an Executor may later name a “Custodian” (including themselves) to manage a child's things under the “Uniform Transfers To Minors Act”.

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 caring for a child and Conservator caring for a child's property and money. People can modify a Will to name different people for the 2 positions, but this is rarely worth it since parents dying is rare, rarely does a child get much, a person able to handle a child often can handle finances, and naming different people can lead to arguments and lawsuits between people helping a child. Will gifts can go to a person named as Guardian or Conservator.

PERSON TO HELP A CHILD MUST BE AT LEAST 18 AND NOT BE UNSUITABLE

A person to be any kind of Guardian or similar must be age 18 or older. They needn't live in New Mexico. A judge may later stop a person from serving if they seem unsuitable like for a bad criminal record. The choice of a person for a position by the last living parent is usually followed. If no Will names a person or they're unavailable a judge can pick someone, but family may argue on who to suggest. A Will naming 2 people for 1 position to act at the same time is rare since they may argue and any 1 person named is usually capable. It is a bit common for a married couple to be named for the same position. Some Wills add a 2nd person to act if the 1st person is unavailable, like: “or if they are later unable to serve I name _____ to serve”). But many people skip adding a fallback since it's rarely needed and if needed a judge can pick someone.

NAMING A GUARDIAN OR SIMILAR PERSON TO HELP RARELY MATTERS

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

CHAPTER 6

BASIC IDEAS ABOUT CONTROLLING HEALTH CARE

BASIC IDEAS HELP PEOPLE UNDERSTAND CONTROLLING HEALTH CARE

Some ideas help people understand health care forms.

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

- If an adult 18 or older becomes incapacitated the adult's closest family like spouse or adult child can make emergency decisions but they usually must then rush to a judge to get further power if no legal document gives them full power over health care.

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

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

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

- Some **young married people** give a spouse power over health care in case they are ever incapacitated. Some **young adults** give this power to parents. **Young people** are less often ill so often skip doing things.

- Pain relief like pain drugs and comfort care is usually given even if forms say to stop or limit other care.

- Most people only do a single long health care form that has a spot to give someone power over health care and a spot for instructions (this is often called a "Health Care Power of Attorney" though names vary).

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

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

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

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

CHAPTER 7

FORM 1: 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. Note, the word Testament is often used in a Will for traditional reasons.

FORM IS A WILL WITH SEVERAL PARTS

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

Paragraph 1, “List Of Spouse And Children”, lets a person write the names of any living spouse and children they have, or if none maybe write “none”. This helps show a Testator has enough mental ability and memory to do a Will. Not listing a living spouse or child here can let an omitted person ask a judge to give them a share or all of a Testator’s property and money by claiming they were accidentally forgotten.

Paragraph 2, “Gifts”, has many spaces to make either specific gifts of particular property or general gifts like of money. People can delete, copy and paste to add more, or leave blank these gift lines.

Paragraph 3, “Separate Writings”, says to follow any separate writings done apart from the Will that gifts tangible personal property in manner allowed by state law.

Paragraph 4, “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 5, “Administration”, names a person to be Personal Representative to do things after a person’s death (in the past the similar term “Executor” was used in New Mexico for the person doing this).

Paragraph 7, “Miscellaneous”, has paragraphs of legal language to help avoid certain legal issues. Last is paragraphs for Testator and 2 Witnesses to date, sign, and print their name and addresses.

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

In a Will “Residue Clause” anything left over after other Will parts is transferred as the clause directs. Many people use a Residue Clause to gift most their things. In this Will form’s Residue Clause there is:

- 1) a 1st space to name 1 or more persons to get the Residue, and if any named here have died before the Will maker then other persons named here in this 1st space take the dead person’s share, and
- 2) a 2nd space to name people to get things if all people named in the 1st space have died, and if any people named in the 2nd space have died their shares go to “lineal descendants” like their children.

TESTATOR AND 2 WITNESSES WHILE TOGETHER SIGN WILL

This Will after being filled out (except bits intentionally left blank) must be signed by the person doing the Will (the “Testator”) in front of at least 2 persons acting as witnesses at least age 18 who then also sign. Legally a Testator need not say anything but usually they should personally ask 2 people to be witnesses, so often a Testator says a thing like, “My name is ____ and this Will I do voluntarily and ask you 2 to witness”.

LAST WILL AND TESTAMENT

I, _____, of _____, New Mexico, 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 _____.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

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

4. 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, and persons just named who survive me shall take the share of persons just named who did not survive me, then if anything at all is left

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

5. ADMINISTRATION. I name, nominate, and appoint _____ as Personal Representative including for me, my Will, and my estate.

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

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

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

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

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

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

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

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

Unless a Will gift specifies otherwise if a Will gift goes to multiple recipients if any do not survive me 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 not providing for some children of mine and also children of a deceased child of mine.

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

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

Unless a Will specifically says otherwise a) a secured debt including a mortgage or lien shall not be paid off including by a Personal Representative or in probate, b) a recipient of

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

I request and authorize any informal, summary, and quick probate or similar action. Any Personal Representative may act independently with no supervision of any court, including independent administration, and with no inventory, appraisal, or other action.

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

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

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

If context permits the terms Personal Representative and Executor and Administrator are interchangeable, Conservator and Guardian of the Estate and Guardian of Property and Custodian are interchangeable, and residue and residuary are interchangeable. Terms and clauses should also be construed in the manner stated in a book this Will is taken from.

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

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

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

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

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

TESTATOR

IN WITNESS WHEREOF, I, _____, the Testator, on the _____ day of _____, 20____, do publish, declare, seal, and sign this document as my Will, and I swear under penalty of perjury that I request the persons named _____ and _____ the Witnesses signing below act as witnesses to my Will; that I declare to them and all persons including any undersigned authority that this document is my Will; that I sign this Will in the presence of both Witnesses; that they sign the Will as Witnesses in the presence of each other and me; that the Will was read by me after being prepared and before I sign it; that it clearly and accurately expresses my wishes; that I sign it willingly; that I make and sign the Will as my free and voluntary act for the purposes expressed in the Will; that I am 18 years of age or older; that I am mentally capable of disposing of my estate by Will; and that I am not acting under duress, menace, fraud or undue influence of any person.

Testator Signature

WITNESSES

We, _____ and _____, the persons named Witnesses in this document, do hereby swear or affirm under penalty of perjury on this _____ day of _____, 20____, to all persons including any undersigned authority that the Testator, _____, declares that the attached document is Testator's Will; that the Testator signs it willingly; that the Testator signs it in the presence of both of us and requests both of us to sign as Witnesses; that each of us in the presence of the Testator and in the presence of each other signs this Will acting as witness to the Testator's signing; that so far as we can determine the Testator is 18 years of age or older; that the Testator is not acting under duress, menace, fraud or undue influence of any person; and that the Testator in our opinion is mentally capable of disposing of Testator's estate by Will.

Witness Signature

Printed Residence of Witness

Witness Signature

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

Paragraph 4, “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 5, “Administration”, names a person to be Personal Representative to do things after a person’s death (in the past the similar term “Executor” was used in New Mexico for the person doing this).

Paragraph 6, “Guardian”, names a person to if needed be Guardian to care for any minor child under age 18, and also be Conservator to if needed manage a minor child’s property and money.

Paragraph 7, “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.

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

In a Will “Residue Clause” anything left over after other Will parts is transferred as the clause directs. Many people use a Residue Clause to gift most their things. In this Will form’s Residue Clause there is:

- 1) a 1st space to name 1 or more persons to get the Residue, and if any named here have died before the Will maker then other persons named here in this 1st space take the dead person’s share, and
- 2) a 2nd space to name people to get things if all people named in the 1st space have died, and if any people named in the 2nd space have died their shares go to “lineal descendants” like their children.

TESTATOR AND 2 WITNESSES WHILE TOGETHER SIGN WILL

This Will after being filled out (except bits intentionally left blank) must be signed by the person doing the Will (the “Testator”) in front of at least 2 persons acting as witnesses at least age 18 who then also sign. Legally a Testator need not say anything but usually they should personally ask 2 people to be witnesses, so often a Testator says a thing like, “My name is ____ and this Will I do voluntarily and ask you 2 to witness”.

LAST WILL AND TESTAMENT

I, _____, of _____, New Mexico, 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 _____.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

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

4. 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, and persons just named who survive me shall take the share of persons just named who did not survive me, then if anything at all is left

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

5. ADMINISTRATION. I name, nominate, and appoint _____ as Personal Representative including for me, my Will, and my estate.

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

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

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

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

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

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

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

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

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

Unless a Will gift specifies otherwise if a Will gift goes to multiple recipients if any do not survive me 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

not providing for some children of mine and also children of a deceased child of mine.

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

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

Unless a Will specifically says otherwise a) a secured debt including a mortgage or lien shall not be paid off including by a Personal Representative or in probate, b) a recipient of a Will gift of property takes it subject to debts, and c) no recipient of property who later loses it or who pays to keep it may require others or the estate to pay or do exoneration.

I request and authorize any informal, summary, and quick probate or similar action. Any Personal Representative may act independently with no supervision of any court, including independent administration, and with no inventory, appraisal, or other action.

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

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

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

If context permits the terms Personal Representative and Executor and Administrator are interchangeable, Conservator and Guardian of the Estate and Guardian of Property and Custodian are interchangeable, and residue and residuary are interchangeable. Terms and clauses should also be construed in the manner stated in a book this Will is taken from.

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

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

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

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

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

TESTATOR

IN WITNESS WHEREOF, I, _____, the Testator, on the _____ day of _____, 20____, do publish, declare, seal, and sign this document as my Will, and I swear under penalty of perjury that I request the persons named _____ and _____ the Witnesses signing below act as witnesses to my Will; that I declare to them and all persons including any undersigned authority that this document is my Will; that I sign this Will in the presence of both Witnesses; that they sign the Will as Witnesses in the presence of each other and me; that the Will was read by me after being prepared and before I sign it; that it clearly and accurately expresses my wishes; that I sign it willingly; that I make and sign the Will as my free and voluntary act for the purposes expressed in the Will; that I am 18 years of age or older; that I am mentally capable of disposing of my estate by Will; and that I am not acting under duress, menace, fraud or undue influence of any person.

Testator Signature

WITNESSES

We, _____ and _____, the persons named Witnesses in this document, do hereby swear or affirm under penalty of perjury on this _____ day of _____, 20____, to all persons including any undersigned authority that the Testator, _____, declares that the attached document is Testator's Will; that the Testator signs it willingly; that the Testator signs it in the presence of both of us and requests both of us to sign as Witnesses; that each of us in the presence of the Testator and in the presence of each other signs this Will acting as witness to the Testator's signing; that so far as we can determine the Testator is 18 years of age or older; that the Testator is not acting under duress, menace, fraud or undue influence of any person; and that the Testator in our opinion is mentally capable of disposing of Testator's estate by Will.

Witness Signature

Printed Residence of Witness

Witness Signature

Printed Residence of Witness

CHAPTER 9

FORM 3: SELF-PROVING AFFIDAVIT

FORM IS SOMETIMES DONE WITH WILL TO REDUCE LATER LEGAL WORK

This form can be done after a Will is done to help with the work of using a Will after the Testator dies. This form must be done with a notary. This form is not required to have a valid Will and is often skipped. This book's form is 1 of 2 similar statutory forms found at NM Statutes § 45-2-504 for people to use.

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. But New Mexico makes it hard to later dispute a Will was not done right and says a Will that appears to have the required signatures and proper attestation clause (part where Witnesses say Testator signed willingly) is admitted to probate without any further proof needed. *See NM Statutes s 45-3-303(C)*. But if a Self-Proving Affidavit form isn't done in rare cases more work may be needed later, like later witnesses to the Will signing must testify in court or submit a writing (or if these people aren't available usually other proof can be used). Also, if this form is not done there is a tiny bit 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 small chance it will really matter and due to the hassle of using a notary each time a Will is done, and since it usually just saves later work of people happy to get things in a Will. Several states have no Self-Proving Affidavit for Wills at all.

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

To complete the form a person who is notary (also called a "notary public") must see the Self-Proving Affidavit form signed by the Testator and the 2 witnesses to the Will signing, and then the notary signs and notarizes it. This form is usually done within a few minutes of when a Will is signed, but this form also can be done much later like weeks or years later when Testator and 2 witnesses can meet with a notary. This book's form may not be done before the Will it supports is done. Once it is completely signed and notarized the Self-Proving Affidavit is then usually stapled or just paper-clipped to the Will it supports.

SELF-PROVING AFFIDAVIT

I, _____, the Testator, swear or affirm under penalty of perjury on this _____ day of _____, 20____ that I requested _____ and _____ to act as Witnesses to my Will; that I declared to them and the undersigned authority that this document is my Will; that I signed this Will in the presence of both Witnesses; that they signed the Will acting as witnesses in my presence and in the presence of each other; that the Will was read by me after being prepared and before I signed it; that it clearly and accurately expresses my wishes; that I signed it willingly; that I made and signed the Will as my free and voluntary act for the purposes expressed in the Will; that I am 18 years of age or older; that I am mentally capable of disposing of my estate by Will; and that I am not acting under duress, menace, fraud or undue influence of any person.

Signature of Testator

Witnesses:

We, _____ and _____, Witnesses, do hereby swear or affirm under penalty of perjury on this _____ day of _____, 20____ that the Testator, _____, declared the attached document to be his or her Will; that the Testator signed it willingly; that the Testator signed it in the presence of both of us and requested both of us to sign as Witnesses; that each of us, in the presence of the Testator and in the presence of each other, signed this will acting as witness to the Testator's signing; that so far as we could determine, the Testator is 18 years of age or older; that the Testator was not acting under duress, menace, fraud or undue influence of any person; and that the Testator, in our opinion, was mentally capable of disposing of the Testator's estate by Will.

Signature of Witness

Signature of Witness

Notary or Officer:

State of New Mexico

County of _____

Subscribed and sworn to, or affirmed under penalty of perjury, and acknowledged before me by _____, the Testator, and subscribed and sworn to, or affirmed under penalty of perjury, before me by _____ and _____, Witnesses, this _____ day of _____, 20____.

(Seal)

(Signed) _____

(Official capacity of officer)

CHAPTER 10

FORM 4: TANGIBLE PERSONAL PROPERTY LIST

LETS GIFTS OF SOME PROPERTY BE EASILY MADE OUTSIDE A WILL

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

FORM GIVES EASY QUICK WAY TO WRITE MORE GIFTS

This List form lets a person easily write more gifts of certain property to occur at their death without having to re-do a Will. To use this form New Mexico law just requires a valid Will says that Lists can be used, and all this book's Will forms say this. If a List and a Will gift the same item then the Will is followed. To help avoid later delay this book's form says a List not found within 90 days of a death will be ignored. If multiple Lists gift the same item the more recently done page controls. People can modify an existing List page if they write a new date and signature. Some people end up with dozens of List pages to follow.

FORM CAN ONLY GIFT "TANGIBLE PERSONAL PROPERTY"

By law the form can only gift tangible things (touchable), so usually not accounts or investments where ownership is tied to papers, accounts, or entities like a company. The form can only gift personal property so not real property (land or buildings). The form can't give money, whether coin or paper currency, even if it is antique and no longer used as money. Most lawyers also suggest the form not be used to give property used in a trade or business. Improper property written in a List is later just ignored. Lists often are used to give clothes, furniture, vehicles, tools, antiques, jewelry, electronics, appliances, art, and similar items.

It may help understanding to show the New Mexico law allowing Lists, which in its main part says:

45-2-513. Separate writing identifying devise of certain types of tangible personal property.

A will may refer to a written statement or list to dispose of items of tangible personal property not otherwise specifically disposed of by the will, other than money. To be admissible under this section as evidence of the intended disposition, the writing must be signed by the testator and must describe the items and the devisees with reasonable certainty. The writing may be:

- A. referred to as one to be in existence at the time of the testator's death;
- B. prepared before or after the execution of the will;
- C. altered by the testator after its preparation; or
- D. a writing that has no significance apart from its effect on the dispositions made by the will.

TO COMPLETE A LIST FORM A PERSON JUST SIGNS AND DATES IT

The form must be signed and usually dated by person doing the form. Often List forms are kept with a Will. To cancel a List form it can be destroyed, crossed out, or just thrown away so it isn't found later.

TANGIBLE PERSONAL PROPERTY LIST

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

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

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

PROPERTY ITEMS

NAMES OF RECIPIENTS

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

DATE: _____

SIGNED: _____

CHAPTER 11

FORM 5: OPTIONAL ADVANCE HEALTH-CARE DIRECTIVE

FORM CAN NAME HEALTH CARE AGENT AND GIVE INSTRUCTIONS

This form lets a person name someone to control health care and also give some health care instructions. It also can cover when to stop care if a person is later incapacitated and doctors say they have a terminal illness or are permanently unconscious, which many call “Living Will” issues. Some states do these things in 2 separate forms. This book’s form is the statutory form found at NM Statutes § 24-7A-4 with small bits added. The form is online, like at the New Mexico State Bar group of lawyers (at www.sbnm.org in forms for elderly) and also the New Mexico Department Of Health (at <https://www.nmhealth.org/publication/view/form/4699>). People with mental health issues may want to also do the “Advance Directive For Mental Health Treatment” found at NM Statutes § 24-7B-7 and online.

FIRST PART CAN NAME AN AGENT FOR HEALTH CARE TO MAKE DECISIONS

In the “Power Of Attorney For Healthcare” part a person can be named as “Agent” to control health care if person doing the form is incapacitated. Also a person can initial a spot to say the Agent has power before the person is incapacitated, and this lets them talk to doctors and make small decisions while a patient rests. Often named Agent is a spouse, adult child, relative, or a friend. Picking an Agent may help avoid family later having to rush to a judge for more power over health care. Additional persons can be named to act if the 1st person doesn’t, but this is rarely needed and often skipped. Health care workers usually shouldn’t be Agent. This form is “durable” which means the form still has power if the person is later incapacitated.

SECOND PART CAN COVER “LIVING WILL” ISSUES ABOUT STOPPING CARE

The second part, “Instructions For Health Care”, covers various options for stopping health care when in very bad health. Many people call these “Living Will” issues, and some other states handle these issues in a separate form. Many people skip this part since it is stressful to do, rarely needed, and an Agent or family are trusted to stop care. This part only legally matters in rare cases where later 1) a person is incapacitated so can’t directly say what care to do, and 2) doctors think a person due to an incurable illness or injury will be permanently unconscious or are terminal and will die soon (usually within 1 year) and life-sustaining care will only artificially prolong dying. In the form a person can write their initials in front of options to say just when to stop certain care. A person’s doctor can often help explain the options. Note, in Part 3 a person can say who their Primary Care Practitioner (main doctor) is, just in case this is not clear but most people skip this.

PERSON SIGNS THE FORM USUALLY WITH 2 WITNESSES

Legally the form just must be signed to be valid, but it is very common for a person when signing the form to have 2 witnesses who then sign the form (especially if people might get health care outside New Mexico). Witnesses can’t be the person named Agent in the form and usually should not be close family of the person. There is also a spot for a notary to also watch the form be signed, but this is rarely used except if family are arguing over issues of care. The form when done is usually quickly shown to places that may give care to put in a person’s medical file to be followed. A person and family often keep copies to show any new medical facility later used. Note, paramedics and others in a hurry usually will not take the time to read this form (see the MOST form later). To cancel the form a person usually tells places that saw the form that it’s canceled.

NEW MEXICO

OPTIONAL ADVANCE HEALTH-CARE DIRECTIVE

(New Mexico Statutes § 24-7A-4)

Explanation

You have the right to give instructions about your own health care. You also have the right to name someone else to make health-care decisions for you. This form lets you do either or both of these things. It also lets you express your wishes regarding the designation of your primary care practitioner.

THIS FORM IS OPTIONAL. Each paragraph and word of this form is also optional. If you use this form, you may cross out, complete or modify all or any part of it. You are free to use a different form. If you use this form, be sure to sign it and date it.

PART 1 of this form is a power of attorney for health care. PART 1 lets you name another individual as agent to make health-care decisions for you if you become incapable of making your own decisions or if you want someone else to make those decisions for you now even though you are still capable. You may also name an alternate agent to act for you if your first choice is not willing, able or reasonably available to make decisions for you. Unless related to you, your agent may not be an owner, operator or employee of a health-care institution at which you are getting care.

Unless the form you sign limits the authority of your agent, your agent may make all health-care decisions for you. This form has a place for you to limit the authority of your agent. You need not limit the authority of your agent if you wish to rely on your agent for all health-care decisions that may have to be made. If you choose not to limit the authority of your agent, your agent will have the right to:

- (a) consent or refuse consent to any care, treatment, service or procedure to maintain, diagnose or otherwise affect a physical or mental condition;
- (b) select or discharge health-care practitioners and institutions;
- (c) approve or disapprove diagnostic tests, surgical procedures, programs of medication and orders not to resuscitate; and
- (d) direct the provision, withholding or withdrawal of artificial nutrition and hydration and all other forms of health care.

PART 2 of this form lets you give specific instructions about any aspect of your health care. Choices are provided for you to express your wishes regarding life-sustaining treatment, including the provision of artificial nutrition and hydration, as well as the provision of pain relief. In addition, you may express your wishes regarding whether you want to make an anatomical gift of some or all of your organs and tissue. Space is also provided for you to add to the choices you have made or for you to write out any additional wishes.

PART 3 of this form lets you designate a primary care practitioner to have primary responsibility for your health care.

After completing this form, sign and date the form at the end. It is recommended but not required that you request two other individuals to sign as witnesses. Give a copy of

the signed and completed form to your physician, to any other health-care practitioners you may have, to any health-care institution at which you are receiving care and to any health-care agents you have named. You should talk to the person you have named as agent to make sure that he or she understands your wishes and is willing to take the responsibility.

You have the right to revoke the advance health-care directive or replace the form any time.

* * * * *

PART 1

POWER OF ATTORNEY FOR HEALTH CARE

(1) DESIGNATION OF AGENT: I designate the following individual as my agent to make health-care decisions for me:

(name of individual you choose as agent)	(phone)		
(address)	(city)	(state)	(zip code)

If I revoke my agent's authority or if my agent is not willing, able or reasonably available to make a health-care decision for me, I designate as my first alternate agent:

(name of individual you choose as first alternative agent)	(phone)		
(address)	(city)	(state)	(zip code)

(2) AGENT'S AUTHORITY: My agent is authorized to obtain and review medical records, reports and information about me and to make all health-care decisions for me, including decisions to provide, withhold or withdraw artificial nutrition, hydration and all other forms of health care to keep me alive, except as I state here:

(Add additional sheets if needed.)

(3) WHEN AGENT'S AUTHORITY IS EFFECTIVE: My agent's authority becomes effective when my primary care practitioner and one other qualified health-care professional determine that I am unable to make my own health-care decisions. **BUT IF I INITIAL THIS BOX [], MY AGENT'S AUTHORITY TO MAKE HEALTH-CARE DECISIONS FOR ME TAKES EFFECT IMMEDIATELY.** Except as stated in this instrument this Power Of Attorney is durable and remains in full force and effect even if I am incapacitated, and this Power of Attorney is effective despite any lapse of time since its execution.

(4) AGENT'S OBLIGATION: My agent shall make health-care decisions for me in accordance with this power of attorney for health care, any instructions I give in PART 2 of this form and my other wishes to the extent known to my agent. To the extent my wishes are unknown, my agent shall make health-care decisions for me in accordance with what my agent determines to be in my best interest. In determining my best interest, my agent shall consider my personal values to the extent known to them.

(5) NOMINATION OF GUARDIAN: If a guardian of my person needs to be appointed for me by a court, I nominate the agent designated in this form. If that agent is not willing, able or reasonably available to act as guardian, I nominate the alternate agents whom I have named, in the order designated.

PART 2 INSTRUCTIONS FOR HEALTH CARE

If you are satisfied to allow your agent to determine what is best for you in making end-of-life decisions, you need not fill out this part of the form. If you do fill out this part of the form, you may cross out any wording you do not want.

(6) END-OF-LIFE DECISIONS: If I am unable to make or communicate decisions regarding my health care, and IF (i) I have an incurable or irreversible condition that will result in my death within a relatively short time, OR (ii) I become unconscious and, to a reasonable degree of medical certainty, I will not regain consciousness, OR (iii) the likely risks and burdens of treatment would outweigh the expected benefits, THEN I direct that my health-care practitioners and others involved in my care provide, withhold or withdraw treatment in accordance with the choice I have initialed below in one of the following three boxes:

[] I CHOOSE NOT To Prolong Life
I do not want my life to be prolonged.

[] I CHOOSE To Prolong Life
I want my life to be prolonged as long as possible within the limits of generally accepted health-care standards.

[] I CHOOSE To Let My Agent Decide
My agent under my power of attorney for health care may make life-sustaining treatment decisions for me.

(7) ARTIFICIAL NUTRITION AND HYDRATION: If I have chosen above NOT to prolong life, I also specify by marking my initials below:

[] I DO NOT want artificial nutrition OR
[] I DO want artificial nutrition.

[] I DO NOT want artificial hydration unless required for my comfort OR
[] I DO want artificial hydration.

(8) RELIEF FROM PAIN: Regardless of the choices I have made in this form and except as I state in the following space, I direct that the best medical care possible to keep me clean, comfortable and free of pain or discomfort be provided at all times so that my dignity is maintained, even if this care hastens my death:

(9) ANATOMICAL GIFT DESIGNATION: At death I specify as marked below whether I choose to make an anatomical gift of all or some of my organs or tissue:

[] I CHOOSE to make an anatomical gift of all of my organs or tissue to be determined by medical suitability at the time of death, and artificial support may be maintained long enough for organs to be removed.

[] I CHOOSE to make a partial anatomical gift of some of my organs and tissue as specified below, and artificial support may be maintained long enough for organs to be removed.

[] I REFUSE to make an anatomical gift of any of my organs or tissue.

[] I CHOOSE to let my agent decide.

(10) OTHER WISHES: (If you wish to write your own instructions, or if you wish to add to the instructions you have given above, you may do so here.) I direct that:

(Add additional sheets if needed.)

PART 3 PRIMARY CARE PRACTITIONER

(11) PHYSICIAN. I designate the following as my primary care practitioner:

(name of primary care practitioner)

(phone)

(address)

(city)

(state) (zip code)

* * * * *

(12) EFFECT OF COPY: A copy of this form has same effect as the original.

(13) REVOCATION: I understand that I may revoke this OPTIONAL ADVANCE HEALTH-CARE DIRECTIVE at any time, and that if I revoke it, I should promptly notify my supervising health-care practitioner and any health-care institution where I am receiving care and any others to whom I have given copies of this power of attorney. I understand that I may revoke the designation of an agent either by a signed writing or by personally informing the supervising health-care practitioner.

(14) SIGNATURES: Sign and date the form here:

(sign your name)		(print your name)	
(address)	(city)	(state)	(zip code)
(date)			

(Optional) SIGNATURE OF WITNESSES

FIRST WITNESS

(sign your name)		(print your name)	
(address)	(city)	(state)	(zip code)
(date)			

SECOND WITNESS

(sign your name)

(print your name)

(address)

(city)

(state)

(zip code)

(date)

(Optional) NOTARY PUBLIC

[illegible]

The foregoing instrument was acknowledged before me this _____ day of _____, 20_____.

(SEAL)

Signature of Notary Public _____
My Commission expires: _____

CHAPTER 12

FORM 6: MEDICAL ORDERS FOR SCOPE OF TREATMENT AND DO NOT RESUSCITATE

THESE 2 FORMS SAY IMMEDIATELY DON'T TRY CERTAIN HEALTH CARE

This Chapter has 2 similar forms. The first form (often called the "MOST" form) lets people do the serious step of saying starting immediately don't try many treatments. The form is short and can be read fast (like by paramedics) and is often used by a person outside a health facility, but it can be used inside places too. The MOST form is often called the "Do-Not-Resuscitate" form but this actually is an older form the MOST has mostly replaced (the Do Not Resuscitate form is similar but only covers resuscitation). Some people like the old Do Not Resuscitate form and this is shown later in this Chapter. These are standard state forms.

FORM SAYS TO IMMEDIATELY NO LONGER TRY CERTAIN HEALTH CARE

In the MOST 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 health professional must sign the form and think it proper. The main thing the form says is don't try "resuscitation" to restart or help the heart or breathing including cardio-pulmonary resuscitation (CPR) and also any electric shocks (defibrillation) to the heart. But there are many treatment options the form can say to not try, like tube feeding and mechanical ventilation. Of course a person with capacity still thinking OK can override the form by verbally requesting care or just not showing the form to paramedics or doctors. If a person falls ill even if they have done this form they are still often taken to a hospital to get pain relief and comfort care. But in general the MOST form is rarely done since these health situations are rare or usually lead to death quickly, it can be stressful to decide this issue, or people trust family and others to say when to stop care.

DO NOT RESUSCITATE FORM IS SHOWN AND COVERS JUST RESUSCITATION

After the MOST form the Do Not Resuscitate form is shown in this book, and this just says immediately no longer try resuscitation (this covers cardio-pulmonary resuscitation (CPR) and also heart defibrillation). No other kinds of medical treatment are covered by the Do Not Resuscitate. This is often called a D-N-R.

FORM IS SIGNED BY PERSON AND A DOCTOR

The MOST form or the Do Not Resuscitate form to be valid is signed by the person doing the form or someone with authority for them, and also signed by a doctor or similar health professional. Once done a form is usually quickly shown to all doctors and places that may give health care so it is put in a person's medical file and followed. Some people keep copies handy for themselves or family to show to paramedics or new places who later try 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 or necklace doctors can help get. To cancel a form usually a person tells places that saw the form that they have decided to cancel it.

This medical order is consistent with the patient's wishes and should be considered in the same manner as a DNR order issued prior to a hospitalization. The New Mexico MOST is an advance healthcare directive or healthcare decision and must be honored in accordance with state law (NMSA 1978§24-7A-1 et seq.). If there is a conflict between this directive and an earlier directive, the most current choices made by the patient or the Healthcare Decision Maker shall control.

First follow these orders, **then** contact the healthcare provider. These medical orders are based on the person's **current** medical condition and preferences. Any section not completed does not invalidate the form.

Date of Birth (mm/dd/yyyy)

When not in Cardiopulmonary arrest, follow orders in **B**, **C** and **D**.

Additional Orders:

☐ Long-term artificial nutrition/hydration.

Discussed with: ☐Patient ☐Healthcare Decision Maker ☐Parent of Minor ☐Court Appointed Guardian ☐Other
☐ Interpreter used

Date _____

Relationship to the Patient

www.nmmost.org

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EMS DNR

EMERGENCY MEDICAL SERVICES (EMS) DO NOT RESUSCITATE (DNR) FORM

AN ADVANCE DIRECTIVE TO LIMIT THE SCOPE OF EMS CARE

NOTE: THIS ORDER TAKES PRECEDENCE OVER A DURABLE HEALTH CARE POWER OF ATTORNEY FOR EMS TREATMENT ONLY

I, _____, request limited EMS care as described in this document. If my heart stops beating or if I stop breathing, no medical procedure to restore breathing or heart functioning will be instituted, by any health care provider, including but not limited to EMS personnel.

I understand that this decision will not prevent me from receiving other EMS care, such as oxygen and other comfort care measures.

I understand that I may revoke this Order at any time.

I give permission for this information to be given to EMS personnel, doctors, nurses and other health care professionals. I hereby agree to this DNR order.

Signature

OR

Signature/Authorized
Health Care Decision Maker

I affirm that this patient/authorized health care decision maker is making an informed decision and that this is the expressed directive of the patient. I hereby certify that I or my designee have explained to the patient the full meaning of the Order, available alternatives, and how the Order may be revoked. I or my designee have provided an opportunity for the patient/authorized health care decision maker to ask and have answered any questions regarding the execution of this form. A copy of this Order has been placed in the medical record. In the event of cardiopulmonary arrest, no chest compressions, artificial ventilations, intubation, defibrillation, or cardiac medications are to be initiated.

Physician's Signature/Date

Physician's Name—PRINT

Physician's Address/Phone

Note: please print three (3) copies

ONE SIGNED COPY: To be kept by patient in white envelope and immediately available to Emergency Responders

ONE SIGNED COPY: To be kept in patient's permanent medical record

ONE SIGNED COPY: If DNR Bracelet/Medallion is desired send to MedicAlert with enrollment form

CHAPTER 13

FORM 7: STATUTORY FORM POWER OF ATTORNEY

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

This form lets a person share power with someone else to do things with the person's property, money, and other things. Many people call the form a "Financial Power Of Attorney". The form is often called "Durable" since it is still usually effective if the person who did it is later incapacitated. This book's form is the statutory form found at NM Statutes § 46B-1-301. The form is available online but people must be careful to see if places change some words. The New Mexico State Bar has a modified form called a "Springing Power Of Attorney" that is explained below. See sbnm.org/For-Public/Legal-Resources-for-the-Elderly/Publications.

FORM LETS POWER BE SHARED WITH SOMEONE TO LET THEM DO THINGS

This form lets a person share power to do things involving their money, property, records, and more with someone trusted like a spouse, other family, or a friend. The form can avoid need for more serious legal options like a Court Adult Guardianship. A person giving power is called the "Principal" and person getting power called the "Agent" or maybe "Attorney in Fact". Additional people can be named to later be Agent if needed but this is rare and often skipped. This form can help if a person is sick, busy, or even unconscious. It can let someone else pay bills, use accounts, buy or sell items, hire people, borrow, sign contracts, and get records. Usually a person can overrule or fire their Agent. If wanted people can make a form be effective only if an event occurs, and this is a "Springing Power Of Attorney" since power should spring up if an event occurs. The springing event often chosen is a person is incapacitated, like by illness. But most people skip this and let a form be effective immediately to avoid big problems like banks delaying till doctors testify or give evidence. The form lets a person say who they'd like as their Guardian and Conservator if later needed

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

A person can initial some boxes to say which of more normal powers are given in the "General Authority" part of the form. Most people give all these powers. Then later in the form is the "Specific Authority" part of the form, and in this part some more risky and less often needed powers can be given, and most people skip all these powers. Instructions can be written to follow but most people after naming an Agent skip giving instructions since if these are unclear a bank or other parties 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 since this form can lead to harm since the Agent can be wasteful, commit fraud or theft, or by carelessness allow other harms. An Agent has a duty to be loyal and act reasonably and can be sued for any harm, but they later may be out of money. Usually banks and others can't be blamed for obeying an Agent. The law is complex and some actions may be improper.

PERSON SIGNS FORM IN FRONT OF A NOTARY

A person must sign the form using a notary. When done often the form goes to the Agent to hold and use if needed. To cancel the form a person usually tells the Agent and takes back copies and maybe tells places that saw the form. Later a bank may ask the Agent sign the Agent's Certification form from NM Statutes § 46B-1-302. If an Agent ever signs a contract using a Power of Attorney they should indicate this.

NEW MEXICO

STATUTORY FORM POWER OF ATTORNEY

IMPORTANT INFORMATION

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

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

You should select someone you trust to serve as your agent. Unless you specify otherwise, generally the agent's authority will continue until you die or revoke the power of attorney or the agent resigns or is unable to act for you.

Your agent is entitled to reasonable compensation unless you state otherwise in the Special Instructions.

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

If your agent is unable or unwilling to act for you, your power of attorney will end unless you have named a successor agent. You may also name a second successor agent. This power of attorney becomes effective immediately unless you state otherwise in the Special Instructions.

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

DESIGNATION OF AGENT

I, _____, name the following person as my agent:
(Your Name)

Name of Agent: _____

Agent's Address: _____

Agent's Telephone Number: _____

DESIGNATION OF SUCCESSOR AGENT(S) (OPTIONAL)

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

Name of Successor Agent: _____

Successor Agent's Address: _____

Successor Agent's Telephone Number: _____

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

Name of Second Successor Agent: _____

Second Successor Agent's Address: _____

Second Successor Agent's Telephone Number: _____

GRANT OF GENERAL AUTHORITY

I grant my agent and any successor agent general authority to act for me with respect to the following subjects as defined in the Uniform Power of Attorney Act:

(INITIAL each subject you want to include in the agent's general authority.

If you wish to grant general authority over all of the subjects, you may initial

"All Preceding Subjects" instead of initialing each subject.)

(_____) Real Property

(_____) Tangible Personal Property

(_____) Stocks and Bonds

(_____) Commodities and Options

(_____) Banks and Other Financial Institutions

(_____) Operation of Entity or Business

(_____) Insurance and Annuities

(_____) Estates, Trusts and Other Beneficial Interests

(_____) Claims and Litigation

(_____) Personal and Family Maintenance

(_____) Benefits from Governmental Programs or Civil or Military Service

(_____) Retirement Plans

(_____) Taxes

(_____) All Preceding Subjects

GRANT OF SPECIFIC AUTHORITY (OPTIONAL)

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

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

- (_____) Create, amend, revoke or terminate an inter vivos trust
- (_____) Make a gift, subject to the limitations of Section 217 of the Uniform Power of Attorney Act and any special instructions in this power of attorney
- (_____) Create or change rights of survivorship
- (_____) Create or change a beneficiary designation
- (_____) Authorize another person to exercise the authority granted under this power of attorney
- (_____) Waive the principal's right to be a beneficiary of a joint and survivor annuity, including a survivor benefit under a retirement plan
- (_____) Exercise fiduciary powers that the principal has authority to delegate
- (_____) Disclaim or refuse an interest in property, including a power of appointment

LIMITATION ON AGENT'S AUTHORITY

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

SPECIAL INSTRUCTIONS (OPTIONAL)

You may give special instructions on the following lines:

SPECIAL INSTRUCTIONS (CONTINUED)

EFFECTIVE DATE

This power of attorney is effective immediately unless I have stated otherwise in the Special Instructions. This Power of Attorney is durable and shall remain in effect even if I become incapacitated unless I have stated otherwise in the Special Instructions.

NOMINATION OF CONSERVATOR OR GUARDIAN (OPTIONAL)

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

Name of Nominee for conservator of my estate: _____

Nominee's Address: _____

Nominee's Telephone Number: _____

Name of Nominee for guardian of my person: _____

Nominee's Address: _____

Nominee's Telephone Number: _____

RELIANCE ON THIS POWER OF ATTORNEY

Any person, including my agent, may rely upon the validity of this power of attorney or a copy of it unless that person knows it has terminated or is invalid.

SIGNATURE AND ACKNOWLEDGMENT

Your Signature: _____ Date: _____

Your Name Printed: _____

Your Address: _____

Your Telephone Number: _____

NOTARY:

STATE OF NEW MEXICO

COUNTY OF _____

This instrument was acknowledged before me on _____

(Date) by _____ (Name of Principal).

(Seal, if any)

Signature of notarial officer: _____

My commission expires: _____

IMPORTANT INFORMATION FOR AGENT

AGENT'S DUTIES

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

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

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

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

TERMINATION OF AGENT'S AUTHORITY

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

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

LIABILITY OF AGENT

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

IF THERE IS ANYTHING ABOUT THIS DOCUMENT OR YOUR DUTIES THAT YOU DO NOT UNDERSTAND, YOU SHOULD SEEK LEGAL ADVICE.

CHAPTER 14

FORM 8: POWER OF ATTORNEY OVER MINOR CHILD

FORM LETS PARENT SHARE POWER WITH SOMEONE OVER CHILD UNDER 18

This form lets a parent share power with someone else over a child under age 18. The form is written to comply with New Mexico law allowing this form and it based on a form that some legal aid groups use. Note, rather than a parent a person who is guardian of a child can also use this form.

FORM CAN GIVE POWER TO SOMEONE OVER CHILD UNDER AGE 18

This form lets a parent share power over a child under 18 with someone they then name in the form. The person getting power is usually called the “Caregiver”, or sometimes the “Agent” and “Attorney-in-Fact”. Often receiving power is a relative, friend, or teacher now helping watch a child or who is willing to do this if later this is ever needed. This form can be used if parent and child are apart for work, school, training, rehab, sports, prison, military, immigration, or long visits. The form is usually not done for normal daily or brief situations like a babysitter, daycare, short family visits, or if a parent can come quickly. Power over health care and school is normally given by this form, but no power over adoption or marriage can be given. The person who did the form usually can overrule a decision or fire the person they named. Though rarely done some people write instructions to say only power over a certain thing is being given. This form is not filed at court. Power of this form can last for 6 months, but the form can be done repeatedly to extend this.

CLOSE FAMILY CAN INSTEAD USE “KINSHIP GUARDIAN CAREGIVER” OPTION

In New Mexico certain close family like a child’s grandparent, aunt or uncle, adult brother or sister, and other family can do papers to become a “Kinship Guardian Caregiver” for 1 year. This temporarily transfers power from parent to caregiver and is seen as a more serious than a Power Of Attorney Over Minor Child. This can be done with a parent’s signature or without a parent’s signature (if a minor child is already living with the relative). If a parent helps set this up they usually have the power to cancel this arrangement later by verbally and in writing saying they wish to cancel this arrangement. Forms for this are at legal aid groups (like pegasuslaw.org/kinship-guardianship) and a statutory form is found at NM Statutes § 40-10B-15(J).

PERSON SIGNS FORM IN FRONT OF A NOTARY

A person doing the Power Of Attorney Over Minor Child form must sign it in front of a notary who then notarizes and signs it. Some people modify the form so a 2nd parent has room to and can sign the form, and this tends to make doctors, schools, and others more likely to follow the form. Once completed usually the form is given to the person given power to use if needed. To cancel the form a person usually tells the person given power it is canceled and takes back copies and maybe tells places that saw the form that it is cancelled. Note, rather than a parent a person who is guardian of a child can also use this form.

POWER OF ATTORNEY OVER MINOR CHILD

Use of this Power of Attorney is authorized in New Mexico by NMSA § 45-5-104.

I, _____ declare that I am the Parent and/or Legal Guardian of _____ who is a minor child under 18 years of age.

The date of birth of this minor child is _____.

Pursuant to NMSA §45-5-104 now do I as Principal of this Power of Attorney hereby delegate to _____ my Attorney-in-Fact whose date of birth is _____ all of my powers as a parent or guardian regarding care, custody or property of the minor child, except the power to consent to marriage or adoption of a minor protected person.

Powers delegated include without limitation power over school, extra-curricular activities, home matters, travel within the United States, and health care (including medication, tests, vaccination, treatment, and surgery).

Validity of this document may be relied on unless it is known it is terminated or invalid. A copy of this document is as good as the original and it is effective immediately unless stated otherwise in this document. This Power of Attorney is durable and remains in effect even if I become incapacitated unless stated otherwise in this document.

This delegation shall last for six (6) months from the date of signing of this Power of Attorney unless another date is indicated.

Instructions (optional): I hereby give these instructions:

I declare under penalty of perjury under New Mexico law the foregoing is true and correct.

Signature of Parent/Guardian

NOTARY: The foregoing was subscribed, sworn to and acknowledged before me this _____ day of _____, 20____, by _____.

Signature of Notary Public

My commission expires: _____

CHAPTER 15

FORM 9: CREMATION AUTHORIZATION AND OTHER REQUESTS

CAN NAME PERSON AND GIVE INSTRUCTIONS TO HANDLE DEAD BODY

This form lets a person give binding instructions about who will handle their cremation and handle their cremated remains, and also lets a person give suggestions if their body will not be cremated.

FORM CAN NAME PERSON TO CONTROL CREMATION AND RELATED ISSUES

A person doing this form if planning cremation can use the form to give binding instructions about which person will control cremation and give instructions about related ceremonies, food, music, pastor, marker, urn, or buying goods and services for all this. If this form isn't done then under state law control is by the closest family member (in order this means a spouse, adult children, parents, then siblings). In reality most people skip naming someone else to control these things since they trust family to manage things unless special problem seems likely (like family may not do as wanted or will do a bad job). In a form usually a person skips writing much since they trust who they named to do what the person mentioned they wanted.

FORM CAN ONLY GIVE SUGGESTIONS IF NO CREMATION WILL BE DONE

If no cremation will be done then under New Mexico law instead of this form a person to make binding instructions must use a Will to pick a person to manage things or give related instructions. For example a person in a Will could add a sentence saying a thing like:

"I want my cousin Harold Max Wheeler to manage my bodily remains, and I want a Catholic Mass and then a dinner in the Holy Spirit basement and I want burial as fast as possible without any gravesite service at Baker Cemetery, all of which I know my estate pays for".

But just in case people want it, this book's form on the next page lets people write nonbinding suggestions for cases not planning cremation since usually family and friends will voluntarily follow these suggestions.

PEOPLE SHOULD DO WHAT DEAD PERSON WANTED AND USE ESTATE FUNDS

In general family and friends should do the cremation, burial, and related ceremonies including any related dinners a dead person indicated they wanted. A person's Executor and family are usually required by law to help arrange payment for the cremation or burial and related things a person wanted so long as the dead person's estate can afford it.

PERSON SHOULD SIGN THE FORM USING 2 WITNESSES OR A NOTARY

A person must sign the form either with 2 witnesses or with a notary. 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 gotten quickly within a few days of a death (like in a file cabinet, a safe, or desk drawer). Note, instructions about bodily remains can also be written in a Will -- but it is then vital the Will is found quickly within days of a death so instructions are seen in time to be followed before burial or cremation.

NEW MEXICO
CREMATION AUTHORIZATION AND OTHER REQUESTS

I, _____, being 18 years of age or older, pursuant to New Mexico statute 24-12A-1 do direct that my body be **cremated** after death.

[OPTIONAL] I further direct the following details **regarding my cremation**:

(attach additional pages if necessary)

Or I know by law **if I am not planning to be cremated** I can only name someone to manage my bodily remains in a Will and can only give binding instructions about this in a Will, but I do wish to give here non-binding instructions below and I hope people will follow them:

(attach additional pages if necessary)

To complete this document I know I can sign with 2 witnesses or 1 notary.

Signature

Date

Witness Signature

Witness Signature

NOTARY: I do hereby state this instrument was acknowledged before me by
_____ (name of person) on _____ (date).

Notary Signature

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 USING A PDF FORM 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 Bernalillo County, New Mexico, do revoke all prior Wills and testamentary documents and do make, publish, and declare this as my Will. I am now 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 _____.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

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

4. 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 wonderful sister who survive me, and persons just named who survive me shall take the share of persons just named who did not survive me, then

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

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

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

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

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

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

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

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

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

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

Unless a Will gift specifies otherwise if a Will gift goes to multiple recipients if any do not survive me 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 not providing for some children of mine and also children of a deceased child of mine.

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

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

Unless a Will specifically says otherwise a) a secured debt including a mortgage or lien shall not be paid off including by a Personal Representative or in probate, b) a recipient of

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

I request and authorize any informal, summary, and quick probate or similar action. Any Personal Representative may act independently with no supervision of any court, including independent administration, and with no inventory, appraisal, or other action.

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

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

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

If context permits the terms Personal Representative and Executor and Administrator are interchangeable, Conservator and Guardian of the Estate and Guardian of Property and Custodian are interchangeable, and residue and residuary are interchangeable.

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

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

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

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

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

TESTATOR

IN WITNESS WHEREOF, I, Paul Samuel Maxwell, the Testator, on the 8th day of June, 20 22, do publish, declare, seal, and sign this document as my Will, and I swear under penalty of perjury that I request the persons named Eve Mable Rogers and Mary Ann Moon the Witnesses signing below act that they act as witnesses to my Will; that I declare to them and all persons including any undersigned authority that this document is my Will; that I sign this Will in the presence of both Witnesses; that they sign the Will as Witnesses in the presence of each other and me; that the Will was read by me after being prepared and before I sign it; that it clearly and accurately expresses my wishes; that I sign it willingly; that I make and sign the Will as my free and voluntary act for the purposes expressed in the Will; that I am 18 years of age or older; that I am mentally capable of disposing of my estate by Will; and that I am not acting under duress, menace, fraud or undue influence of any person.

Paul Samuel Maxwell

Testator Signature

WITNESSES

We, Eve Mable Rogers and Mary Ann Moon, the persons named Witnesses in this document, do hereby swear or affirm under penalty of perjury on this 8th day of June, 20 22, to all persons including any undersigned authority that the Testator, Paul Samuel Maxwell, declares that the attached document is Testator's Will; that the Testator signs it willingly; that the Testator signs it in the presence of both of us and requests both of us to sign as Witnesses; that each of us in the presence of the Testator and in the presence of each other signs this Will acting as witness to the Testator's signing; that so far as we can determine the Testator is 18 years of age or older; that the Testator is not acting under duress, menace, fraud or undue influence of any person; and that the Testator in our opinion is mentally capable of disposing of Testator's estate by Will.

Eve Mable Rogers

Witness Signature

14 2nd St., Albuquerque, NM 87124

Printed Residence of Witness

Mary Ann Moon

Witness Signature

35 Buffalo Road, Denver, Colorado 80104

Printed 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 Baker, of Sandoval County, New Mexico, 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 Baker wife Oscar Elliot Baker young son
Karen Lisa Lundy daughter Derek Rupert Baker 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, Coralles, New Mexico to Kenneth Alan Ford.

I give all real property and fixtures I own in Bernalillo County, New Mexico 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.

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

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

- a) to Ruth May Baker who survive me, and persons just named who survive me shall take the share of persons just named who did not survive me, then
- b) to 45% to Oscar Elliot Baker, and 45% to Karen Lisa Lundy, and 10% to Oscar Sanchez my friend and if any of those just named do not survive me their part instead goes to their lineal descendants per stirpes.

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

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

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

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

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

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

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

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

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

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

Unless a Will gift specifies otherwise if a Will gift goes to multiple recipients if any do not survive me 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 not providing for some children of mine and also children of a deceased child of mine.

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

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

Unless a Will specifically says otherwise a) a secured debt including a mortgage or lien shall not be paid off including by a Personal Representative or in probate, b) a recipient of

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

I request and authorize any informal, summary, and quick probate or similar action. Any Personal Representative may act independently with no supervision of any court, including independent administration, and with no inventory, appraisal, or other action.

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

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

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

If context permits the terms Personal Representative and Executor and Administrator are interchangeable, Conservator and Guardian of the Estate and Guardian of Property and Custodian are interchangeable, and residue and residuary are interchangeable.

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

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

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

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

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

TESTATOR

IN WITNESS WHEREOF, I, Paul Brian Baker, the Testator, on the 30th day of December, 2021, do publish, declare, seal, and sign this document as my Will, and I swear under penalty of perjury that I request the persons named Olivia Anna Paulson and Matthew John Paulson, the Witnesses signing below act as witnesses to my Will; that I declare to them and all persons including any undersigned authority that this document is my Will; that I sign this Will in the presence of both Witnesses; that they sign the Will as Witnesses in the presence of each other and me; that the Will was read by me after being prepared and before I sign it; that it clearly and accurately expresses my wishes; that I sign it willingly; that I make and sign the Will as my free and voluntary act for the purposes expressed in the Will; that I am 18 years of age or older; that I am mentally capable of disposing of my estate by Will; and that I am not acting under duress, menace, fraud or undue influence of any person.

Paul Brian Baker

Testator Signature

WITNESSES

We, Olivia Anna Paulson and Matthew John Paulson, the persons named Witnesses in this document, do hereby swear or affirm under penalty of perjury on this 30th day of December, 2021, to all persons including any undersigned authority that the Testator, Paul Brian Baker, declares that the attached document is Testator's Will; that the Testator signs it willingly; that the Testator signs it in the presence of both of us and requests both of us to sign as Witnesses; that each of us in the presence of the Testator and in the presence of each other signs this Will acting as witness to the Testator's signing; that so far as we can determine the Testator is 18 years of age or older; that the Testator is not acting under duress, menace, fraud or undue influence of any person; and that the Testator in our opinion is mentally capable of disposing of Testator's estate by Will.

Olivia Anna Paulson

Witness Signature

82 Nuclear Road, Los Alamos, NM 87321

Printed Residence of Witness

Matthew John Paulson

Witness Signature

82 Nuclear Road, Los Alamos, NM 87321

Printed Residence of Witness

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

LAST WILL AND TESTAMENT

I, John David Smith, of Sandoval County, New Mexico do revoke all prior Wills and testamentary documents and do make, publish, and declare this as my Will. I am now 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 Dodd

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 \$200 to each of my nieces and nephews so about \$2,800 in total.

I give \$400 to Garner Food Shelf in East Farmington, New Mexico.

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

4. RESIDUE. The rest and residue and remainder of my estate, of any type and wherever located, I give to Adam Michael Smith and Judy Paula Ford and if any of those just named do not survive me their part instead goes to their lineal descendants per stirpes.

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

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

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

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

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

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

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

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

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

Unless a Will gift specifies otherwise if a Will gift goes to multiple recipients if any do not survive me 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 not providing for some children of mine and also children of a deceased child of mine.

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

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

Unless a Will specifically says otherwise a) a secured debt including a mortgage or lien shall not be paid off including by a Personal Representative or in probate, b) a recipient of a Will gift of property takes it subject to debts, and c) no recipient of property who later loses it or who pays to keep it may require others or the estate to pay or do exoneration.

I request and authorize any informal, summary, and quick probate or similar action. Any Personal Representative may act independently with no supervision of any court, including independent administration, and with no inventory, appraisal, or other action.

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

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

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

If context permits the terms Personal Representative and Executor and Administrator are interchangeable, Conservator and Guardian of the Estate and Guardian of Property and Custodian are interchangeable, and residue and residuary are interchangeable.

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

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

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

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

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

TESTATOR

IN WITNESS WHEREOF, I, John David Smith, the Testator, on the 21st day of June, 2023, do publish, declare, seal, and sign this document as my Will, and I swear under penalty of perjury that I request the persons named Mark Elliot Potter and Ann Paula Blom the Witnesses signing below act that they act as witnesses to my Will; that I declare to them and all persons including any undersigned authority that this document is my Will; that I sign this Will in the presence of both Witnesses; that they sign the Will as Witnesses in the presence of each other and me; that the Will was read by me after being prepared and before I sign it; that it clearly and accurately expresses my wishes; that I sign it willingly; that I make and sign the Will as my free and voluntary act for the purposes expressed in the Will; that I am 18 years of age or older; that I am mentally capable of disposing of my estate by Will; and that I am not acting under duress, menace, fraud or undue influence of any person.

John David Smith

Testator Signature

WITNESSES

We, Mark Elliot Potter and Ann Paula Blom, the persons named Witnesses in this document, do hereby swear or affirm under penalty of perjury on this 21st day of June, 2023, to all persons including any undersigned authority that the Testator, John David Smith, declares that the attached document is Testator's Will; that the Testator signs it willingly; that the Testator signs it in the presence of both of us and requests both of us to sign as Witnesses; that each of us in the presence of the Testator and in the presence of each other signs this Will acting as witness to the Testator's signing; that so far as we can determine the Testator is 18 years of age or older; that the Testator is not acting under duress, menace, fraud or undue influence of any person; and that the Testator in our opinion is mentally capable of disposing of Testator's estate by Will.

Mark Elliot Potter

Witness Signature

2 Nottingham St, Sherwood, NM 88004

Printed Residence of Witness

Ann Paula Blom

Witness Signature

70 Rocky Road, Clarksville, NM 87128

Printed Residence of Witness

Sample Filled Out Form: Self-Proving Affidavit

SELF-PROVING AFFIDAVIT

I, John David Smith, the Testator, swear or affirm under penalty of perjury on this 21st day of June, 2023 that I requested Mark Elliot Potter and Ann Paula Blom to act as Witnesses to my Will; that I declared to them and the undersigned authority that this document is my Will; that I signed this Will in the presence of both Witnesses; that they signed the Will acting as witnesses in my presence and in the presence of each other; that the Will was read by me after being prepared and before I signed it; that it clearly and accurately expresses my wishes; that I signed it willingly; that I made and signed the Will as my free and voluntary act for the purposes expressed in the Will; that I am 18 years of age or older; that I am mentally capable of disposing of my estate by Will; and that I am not acting under duress, menace, fraud or undue influence of any person.

John David Smith

Signature of Testator

We, Mark Elliot Potter and Ann Paula Blom, Witnesses, do hereby swear or affirm under penalty of perjury on this 21st day of June, 2023 that the Testator, John David Smith, declared the attached document to be his or her Will; that the Testator signed it willingly; that the Testator signed it in the presence of both of us and requested both of us to sign as Witnesses; that each of us, in the presence of the Testator and in the presence of each other, signed this will acting as witness to the Testator's signing; that so far as we could determine, the Testator is 18 years of age or older; that the Testator was not acting under duress, menace, fraud or undue influence of any person; and that the Testator, in our opinion, was mentally capable of disposing of the Testator's estate by Will.

Mark Elliot Potter

Signature of Witness

Ann Paula Blom

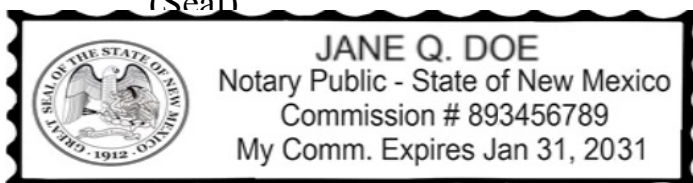
Signature of Witness

State of New Mexico

County of Sandoval County

Subscribed and sworn to, or affirmed under penalty of perjury, and acknowledged before me by John David Smith, the Testator, and subscribed and sworn to, or affirmed under penalty of perjury, before me by Mark Elliot Potter and Ann Paula Blom, Witnesses, this 21st day of June, 2023.

(Seal)



(Signed) Jane Q. Doe

(Official capacity of officer)

Sample Filled Out Form: Tangible Personal Property List

TANGIBLE PERSONAL PROPERTY LIST

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

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

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

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

DATE: March 2, 2024 SIGNED: John David Smith