

DAVENPORT'S IOWA WILLS AND ESTATE PLANNING LEGAL FORMS

**written by attorneys
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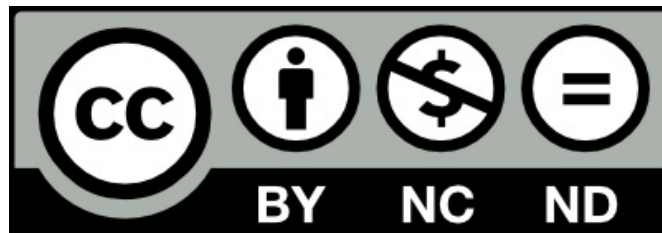
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CHAPTER 1

BOOK BASICS AND LIST OF FORMS

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

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

ESTATE PLANNING MOSTLY IS DOING SIMPLE THINGS IN 3 AREAS

Estate Planning is mostly doing simple things in 3 areas: Will Related, Health Care, and Giving Power. There are 10 ready to use Iowa legal forms in this book. Many people use just 1 to 3 of these legal forms.

WILL RELATED FORMS

Form 1. Will (Standard) – a Will (also called a “Last Will And Testament”) lets a person control things after their death like who gets money and property, who is Executor, and if easier legal options can be used.

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

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

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

HEALTH CARE FORMS

Form 5. Durable Power Of Attorney For Health Care Decisions – lets a person name someone to be Agent to control health care if the person is later incapacitated and also lets person give some instructions.

Form 6. Living Will – lets a person do serious act of saying stop most health care if later they are incapacitated and doctors later think the health situation is very bad and more care won't help.

Form 7. Iowa Physician Orders For Scope Of Treatment – does serious act of saying to paramedics and others immediately from now on do not try health care listed like C.P.R., defibrillation, or tube feeding.

GIVING POWER FORMS

Form 8. Iowa Statutory Power Of Attorney – lets power over money, property, and more be given to a trusted person so they have power to do things, like use accounts, pay bills, get records, and sell property.

Form 9. Iowa Durable Power Of Attorney For Minor Child – lets a parent give power to someone over a minor child under 18 to use if needed including health care, school, and home issues.

Form 10. Declaration Of Designee For Final Disposition – lets a person give instructions and name someone to control issues about their dead body like funeral, cremation, and burial.

IOWA LAW ON ESTATE PLANNING COVERS MOST PEOPLE IN IOWA

This book is only for Iowa state since Estate Planning law and legal documents do vary between states. Usually a state's Estate Planning law applies if a person's primary residence is here (often called "domicile"). Many judges say residence occurs if a person lives in a place and for a moment has no clear plans to leave. Later plans to move don't matter till people actually move. People can stay under their previous state's Estate Planning laws after they move from it if people have some plans to leave the new state eventually. For example, people who leave for months or more for travel, for school, for special work projects, and the military often can keep legal ties to their old state. Immigrants here of any kind can do normal Estate Planning. For health care people often do legal documents to match the state a hospital or other health facility is in.

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

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

THIS BOOK COVERS MAJOR LEGAL IDEAS AND SHOULD SUIT MOST PEOPLE

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

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

Studies on Estate Planning show a surprising 60% of adults have not done anything, 19% used a lawyer for this, and 21% used legal forms. Legal forms are good at most things involved in Estate Planning and can make binding legal documents that judges, doctors, families, banks, and others legally must follow. Instead of legal forms a lawyer can be used for Estate Planning but it can be costly, take months of work, and they can make mistakes. In life people often weigh costs, benefits, and risks and often choose a cheap option. Also, often a hospital, state agency, charity, or state legislature has made a form most people use and call the "standard form", and doctors, judges, and others may not like to follow anything else including even if a lawyer wrote it. This book does provide the standard form for Iowa in a subject area if it exists.

ESTATE PLANNING OFTEN IS NOT VITAL AND WORTH SPENDING MUCH ON

Despite what many people think Estate Planning often does not greatly change the costs, taxes, delays, and work involved in these areas, so it often is not vital and worth spending much money and energy on. Benefits seem low for young people even if they're parents since only about 4% of people die by age 50, and only about 0.13% of children under 18 had both parents die to need big legal help. See *Social Security Tables: Felicitie Bell; Parent Mortality Census SIPP Paper #288*. Instead of costly Estate Planning many people buy life insurance, like some people pay yearly for \$100,000 term life without exam ("simplified issue").

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

Legal documents may need to be “witnessed”, which is someone watching the person doing a form sign and then they sign too. Documents may need to be “notarized”, which is a person who is a “notary” (also called a “notary public”) see signing and use ink stamp and then they sign too. Notaries are at some banks, brokers, insurance agents, courts, law offices, libraries, mailing or copying centers, and government offices, but they can be busy or only help current customers. A phonebook can help people find a helpful notary. If a person signs a legal document in a language they don’t understand it is still usually valid and binding. In legal documents the words “subscribe” or “execute” means a person signed it, and “acknowledgment” means a person somehow showed a 2nd person like a notary or a witness they intended to do a document.

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

When filling out a legal form except for signatures other parts can be filled in by someone not doing the form with good handwriting or typing. After a form is done usually people try to keep the original and hand out copies. Some people have everyone sign multiple copies to have multiple copies with ink signatures.

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

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

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

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

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

NO FEDERAL OR IOWA TAX IS USUALLY OWED DUE TO A DEATH

Usually no tax is owed as a result of a death, including no estate, inheritance, death, or similar taxes. This is because the Federal Estate And Gift Tax only starts when a tax credit is used up covering \$12.92 million a person in 2023 or later. At the state and local level the Iowa legislature has been phasing out the “Iowa Inheritance Tax” which is set to end completely for deaths occurring after January 1, 2025. This state tax taxes people here receiving things from a decedent, but this tax is written so it doesn’t apply if a recipient is a close relative of the dead person (like a spouse, children, sibling, or parents), and for other people the tax usually is under 5%, and this tax will end completely starting in 2025.

CHAPTER 2

TERMS, PROPERTY LAW, AND HELPFUL INFORMATION FORM

THERE ARE BASIC TERMS AND IDEAS IN ESTATE PLANNING

Some legal terms and ideas are basic to Estate Planning.

- “Estate Planning” is about people doing legal documents to control things if later absent, sick, or dead. After a document is done people are mostly free to sell or transfer property, instruct doctors, or change forms.
- A “person doing a legal document” and “doing a form” means the form is for and affects that person.
- A “Will” or “will” (this book uses upper case “W”) is a legal document done to control issues after death. The phrase “Last Will And Testament” is used since a “Testament” long ago was a small document done along with a Will to do some things. If no Will is done a person is described as being “intestate”.
- A person who died is called the “decedent” or “deceased”. A person getting a Will gift is called “recipient”, “beneficiary”, or “heir” if related (they “inherit”). “Survive” or “surviving” is to be alive after someone died.
- A person named to handle and do things after someone’s death is usually called an “Executor”, but if a judge has to pick someone they are called an “Administrator”. The term “Personal Representative” covers both these terms and is now the most common term used in Iowa for someone doing things after a death.
- A person doing a Will is called “Testator” or “Will maker”. Before about 1990 a woman Testator was called a “Testatrix” and woman Executor called an “Executrix” but this is no longer often done.
- “Probate” is a legal process to do things after someone’s death like transfer property, handle creditors, and authorize a Guardian. Due to nice changes in law probate is now often informal, faster, and less costly.
- “Property” is either: 1) “real property” which is land and buildings (“real estate”), 2) “personal property” which is things not real property, like cash, accounts, stocks, tools, clothes, cars, jewelry, and art, or 3) “fixtures” which are things tied to real property (like fences, posts, lighting, and wired-in appliances).
- Legal documents to control health care things are often called “Advanced Directives”.
- In Iowa a person under 18 is usually called a “minor” and often a parent or guardian helps them. A minor or other person not reasonably able to make wise decisions lacks “capacity” and is “incapacitated”.
- Forms giving power to someone are often called “Power of Attorney” forms. The person giving power is called the “Principal” and person getting power is called the “Attorney-in-Fact” or “Agent”.
- State law is called the “Iowa Code”. A law is often called a “statute” or “section” often shown by “§” or “s”. Iowa law is made up of a few hundred Chapters, for example Chapter 633 is often called the “Probate Code” and deals with Wills. A law can be referred to in a few ways, for example like: “Iowa Code § 633.279”. A legal form written in state law for people to find and use if wanted is called a “statutory form”.

“ESTATE” MEANS PROPERTY OF DECEDENT OR ENTITY HOLDING ITEMS

First, the “Estate” or “probate estate” means all property and money of a dead person that at death or soon after didn’t somehow legally automatically go to new owners. Second, estate is also the word for the temporary entity run by an Executor to do things after a death (it’s like a small corporation). A dead person’s money and accounts might be renamed or moved to a bank under an Estate name, like “Estate of Ed Hud”.

PERSON CAN ONLY GIFT IN WILL WHAT THEY OWN AT DEATH

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

THINGS OWNED IN SPECIAL WAYS MAY LIMIT GIFTING IN WILL

A person should consider if they own real estate or other property in special 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 usually how the family house is held (in Iowa often married people do papers so if 1 spouse dies the surviving spouse gets a house).
- papers say a “life estate” exists, so then if life of someone ends the other people in papers get item, and
- “Trust property” occurs if paperwork made a Trust entity and property was actually transferred into it, so then the Trust papers control where things put in the Trust go on someone’s death.

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

NON-PROBATE TRANSFERS THAT HAPPEN AUTOMATICALLY IGNORE A WILL

Money or property of the deceased that for some reason automatically transfers on death or soon after to new owners is called “non-probate property”. Such things transfer as arranged even if Will gifts name the same items. Examples of non-probate property are: a) a “designated beneficiary” form was done that names people to get an account or investment, b) transfer-on-death accounts, and c) real property is held by 2 people as “joint tenants with survivorship” or similar so at a death the surviving person gets things. Also property in a Trust usually ignores a Will and transfer as Trust papers say. Life insurance often goes to a named beneficiary. Trying to do non-probate transfers for all things is called “avoiding probate”, but few people try this since it can cause years of hassle, benefits are small, and often a small thing is missed. When doing a Will a person should consider non-probate transfers that will occur automatically on death and consider what property and money will be left to transfer by Will.

“HELPFUL INFORMATION” FORM CAN TELL FAMILY AND FRIENDS THINGS

People can do a “Helpful Information” form that financial planners, lawyers, and banks suggest so friends and family after a death 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 #, special family details, other):
2. Real estate, vehicles, and other major tangible property (especially if people may not find them):
3. Non-tangible assets like stocks, accounts, investments, loans owed you, and business interests:
4. Possible income or insurance like pensions, retirement, disability, insurance, or contracts:

5. Debts owed by you like credit card, loan, student loan, mortgage, vehicle loan, and accounts payable:
6. Names and information of professionals used (attorneys, accountants, brokers, doctors, others):
7. Computer passwords and helpful files, document places, and safes or safe-deposit boxes codes/keys:
8. Other helpful things, wishes for funeral, special requests, and any last messages to family and friends:

CHAPTER 3

WILL BASICS

WILL LETS “TESTATOR” CONTROL THINGS AFTER DEATH

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

SIGN WILL WITH 2 WITNESSES

WILL MUST SHOW IT’S A WILL, BE DECLARED A WILL, AND BE WITNESSED

To be a valid Will in Iowa usually a written document must show it is meant as a Will by its wording or title, the person doing the Will must declare aloud to witnesses it is their Will, and person doing the Will must sign it before 2 witnesses who sign too. A “Video Will” or “Audio Will” usually has no legal effect in Iowa.

WITNESSES SHOULD BE PEOPLE AT LEAST AGE 18

A person to witness a Will usually are at least age 18, though technically in Iowa age 16 is old enough. It is not required but preferable a witness not be old or live far away, and usually not be named in the Will as Executor, Guardian, or to a similar job. Often used as witnesses are friends, neighbors, strangers, or family.

WITNESS OR THEIR SPOUSE USUALLY SHOULDN’T BENEFIT FROM A WILL

If a person or their spouse benefits from a Will they can be used as a witness to do a Will, but any Will gifts or other benefits to them likely will be ignored and not carried out without 2 other sufficient witnesses. A small exception says a witness can get up to the amount they’d get by intestate law if there were no Will. To avoid this issue often witnesses are chosen who won’t benefit directly or through a spouse by a Will.

TESTATOR SHOULD ALOUD “DECLARE” THE DOCUMENT IS THEIR WILL

Iowa law refers to a person “declaring” a document is their Will. To do this a person by their words or conduct should show witnesses the document is a Will they want. Some states call this “Publishing” a Will. Often a Testator says a thing like, “My name is _____ and this is the Will I want and do voluntarily and want people to witness”. Some Testators also chat with witnesses a few minutes to show they are of sound mind.

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

The person doing the Will should sign it with 2 witnesses who then also sign the Will. All people should be in 1 room and see all others sign. Witnesses and Testator showing an ID is not required but common. A Testator or witness usually use their full legal name in a Will unless they dislike it and very rarely use it. The Testator need not initial Will pages. The witnesses usually only read the 1 paragraph they sign below. People who can’t move a hand to sign a Will should consult a lawyer.

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

People should keep a Will so it can be found within days of a death, like in a desk, drawer, safe, or less often safe deposit box. It can be given to a person to hold. It may help to tell others how to find and get a Will. Though rare in Iowa a Will can also be filed during a person’s life with the local clerk of court for safekeeping.

CANCELING OLD WILLS IS USUALLY NOT A PROBLEM

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

MOST WILLS SAY TO SKIP COSTLY BOND FOR EXECUTOR AND OTHERS

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

MOST WILLS SAY PEOPLE MAY LATER DO “INFORMAL PROBATE”

Most Wills say people may later do “informal probate” which can avoid later costs and delays. Also, in Iowa if a decedent left under \$50,000 of property and money usually simpler probate options can be used.

MOST WILLS HAVE A MISCELLANEOUS PART WITH HELPFUL LANGUAGE

Most Wills have a “Miscellaneous” page with legal language that might help avoid later legal problems.

A WILL NAMES AN EXECUTOR TO DO THINGS AFTER A DEATH

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

Usually a Will names someone as “Executor” to act after a death like carry out gifts, handle debts, and do probate. The law gives Executors many powers and rights to do things like get records, handle creditors, and collect property and money to give to new owners. If a Will doesn’t name an Executor a judge can pick someone, but family may argue about this. Naming 2 people to both do this job is rare due to risk of delay and arguments, and since any 1 person named should be trusted. The term “Personal Representative” is often used instead of Executor, but these terms mostly mean the same thing. An Executor can get Will gifts.

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

Iowa law has a fee schedule saying usually an Executor can ask to be paid about 2% the value of estate and property they handle. Some people feel this is too much and add a line to a Will saying to not pay them. But often Executors skip asking for pay to not owe income tax and leave more money to carry out Will gifts. A lawyer hired by an Executor can be paid by the hour. Expenses an Executor has like for lawyers, probate costs, insurance, repairs, mortgage payments, utilities, and similar things is paid for using estate assets.

EXECUTOR IS PERSON AT LEAST 18 AND SECOND PERSON RARELY NEEDED

By law a person to be Executor must be 18 or older, though they need not have a clean criminal record. However a judge may block or remove a person doing a bad job or who is unsuitable like for past big crimes. And if a person is not an Iowa resident a judge will name a local person as Co-Executor to also serve (so it’s easier if an Executor lives in Iowa). Some people name a 2nd person to be Executor if the 1st person is not available but most skip this since it’s rarely an issue, if needed a new Will can be done, or a judge can act. To add a 2nd person words can be added, like: “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 proper Will. A Will can control property acquired after it was signed. The very end of this chapter covers “intestate law” which controls where a person’s things go at death if no valid Will handles this.

GIFTING IN A WILL USING SIMPLE WORDS OFTEN IS BEST

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

A PERSON IS MOSTLY FREE TO GIFT THEIR THINGS AS WANTED

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

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

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

IN WILL CAN DO “GENERAL GIFTS” LIKE OF MONEY

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

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

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

CONDITIONS ON WILL GIFTS ARE RARE DUE TO POSSIBLE PROBLEMS

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

LATER DIVORCE OR MURDER CANCELS WILL GIFTS

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

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 Ed Wu and 10% to Joe Hud”.

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

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

GIFT BENEFICIARIES CAN GET PERCENTAGE RATHER THAN EQUAL SHARE

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

AFTER A DEATH FAMILIES OFTEN LET PEOPLE TAKE ITEMS UNOFFICIALLY

After a death many families all agree to unofficially let people take small items in ways a dead person mentioned, wrote on memo or list or note, put on stickers, or would want, and this often is not a problem. If anyone objects a judge usually orders property and money be handed out as a Will and other legal things say - - but afterward people who got things can voluntarily re-transfer things to do what decedent wanted.

OPTIONS EXIST TO HANDLE RARE CASE PERSON IN A WILL GIFT DIES

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

Though rarely an issue, many Wills like this book’s Will forms say a person named in a Will gift must survive (live past) the Testator or the gift will not later occur unless gift language specifically says different. If survival isn’t required like this then what occurs can be unclear (for many reasons like certain state laws). Most people if they see a person in a gift has died just re-do a Will or trust a Residue Clause to handle it.

SOME PEOPLE ADD “ALTERNATE BENEFICIARY” MAYBE FOR SPECIAL ITEMS

Some people to handle if a person named in a Will gift dies maybe put for special items an alternate beneficiary, like for example: “I give oak table to Ed Wu but if they don’t survive me to Ben Fox”.

IF PERSON IN WILL GIFT DIES IT CAN GO TO “LINEAL DESCENDANTS”

A Will gift can say it goes to a person but if they don’t survive the Testator then say the gift goes to the person’s “lineal descendants”. Descendants are a person’s children and grandchildren. Also, the term “per stirpes” is often used to say to give to each family branch equally. An example shows how this works:

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

HELPFUL LAWS OFTEN REQUIRE PERSON SURVIVE 120 HOURS TO GET GIFT

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

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

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

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

USUAL RESIDUE CLAUSE HAS 2 PARTS

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

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

EXAMPLE OF 2 PART RESIDUE CLAUSE:

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

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

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

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

SOME PEOPLE USE PERCENTAGES TO GIFT DIFFERENT AMOUNTS OF RESIDUE

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

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

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

SOME PEOPLE CHANGE A RESIDUE CLAUSE TO HAVE 1 PART

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

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

MUST SUFFICIENTLY DESCRIBE NAMES AND PROPERTY IN WILL GIFTS

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

Putting names in Wills is fairly easy. A judge or Executor assume a person in Will gifts meant people they know, so common names are OK unless 2 friends or family use 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 \$150 to The Salvation Army, "I give \$90 to Ames, Iowa City Library", and "I give \$5 to Lob Church in Rex, Texas". People often phone to get a charity's name.

PUTTING DESCRIPTIONS OF ITEMS IN WILL GIFTS IS FAIRLY EASY

Describing items in gifts is easy since people rarely own similar items, so often fine 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 Mo". Financial assets can use plain words, like "bank accounts" or "stocks", but details can help, like: "US Bank account ending #1511". But using item location is risky as judges might 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 at cabin" likely is OK.

DESCRIBING REAL PROPERTY IS HARD SO MANY USE RESIDUE OR TITLE

The easier and safer way to gift real property (real estate) at death is: 1) do nothing specific so it's handled by a Will Residue Clause, or 2) have a broker or lawyer add names to a deed or similar to get real property.

Gifting real property other ways is rarely done and hard, though it is possible. Helpfully a Will gift of real property by location does gift all land, buildings, and fixtures there with no need to describe what's there.

It is possible to gift real property with very plain words, like a house, fixtures, and land can be fully given by something like: "I give 21 Salem Road, Wheeling, Iowa to Mary Ellen Brown".

Or people can do a blanket gift giving all of a kind of property, like, "I give all real property and fixtures I own in Linn County, Iowa to Ann Sue Hu" or "I give all real property and fixtures in any place to Paul Ian Rex".

Gifting real property using a "legal description" is harder, and people must copy without mistakes a full legal description of maybe many lines into a Will with no abbreviations. A legal description is found in a deed or on mortgage papers. Legal descriptions may refer to a "lot" or "blocks" in a subdivision which is recorded in land records of a county, or it may refer to a path with various angles, distances, and iron stakes.

CAN LEAVE SOME WILL GIFT LINES BLANK OR WRITE THINGS LIKE "SKIPPED"

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

CHAPTER 5

DEBT, MARRIAGE, AND YOUNG CHILD ISSUES

FOR SOME PEOPLE THERE ARE DEBT, MARRIAGE, AND YOUNG CHILD ISSUES

Some people face issues about debt, marriage, and young children which require a little more legal information which this Chapter provides. But many people without these issue can skip parts of this Chapter.

DEBT ISSUES

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

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

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

Most states in laws have "family rights" a decedent's surviving spouse or young children can choose to use, and this may let them get some of decedent's things before most of decedent's debts are paid back and also before a Will and other transfers occur. Iowa basically partly has these rights to a moderate degree. First, in Iowa a surviving spouse or dependent child of decedent can ask for a "Family Allowance" for 1 year to live on (and often given is decedent's after tax income paid for by selling some property of the decedent). Second, a surviving spouse can get all "exempt property" of decedent which by law is a mix of things normally a creditor is blocked from trying to get. Basically a spouse can claim of decedent's things about \$7000 of clothing and household items, \$1000 of books, some guns, a motor vehicle up to \$7000 of equity, \$10,000 of tools, \$7000 of jewelry, and \$1000 of cash and bank accounts. Often a spouse gets most things at a house. Third, a spouse may have some rights to use the homestead, and also a spouse can get an Elective Share, (these are discussed elsewhere in this book). All this can help family if decedent had big debts or help in cases where family feel they didn't get enough. Clearly if a spouse or minor children choose to use family rights this leaves less to carry out Will gifts and other transfers. Partly so family don't bother to use family rights most people give mostly to any spouse or children under 18 (like over 50% and any family house).

SECURED DEBTS LIKE MORTGAGE OR VEHICLE LIEN ARE NOT PAID OFF

Most Wills and laws in most states say usually don't pay off secured debts like a house mortgage or vehicle lien on decedent's property even if other debts are paid off by Executor or in probate. This avoids using a lot of estate resources on paying big secured debts. All this book's Will forms say to not pay secured debts if there aren't written instructions to do this. But if wanted a Testator can a) gift in Will enough money to pay such debts to person getting a property, or b) put in Will an order to pay (like, "Use estate property and money to pay off the Oak Street mortgage"). Most banks let new owners who got property keep paying the same mortgage or lien.

MARRIAGE ISSUES

MOST STATES USE “SEPARATE PROPERTY LAW” FOR SPOUSES

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

“COMMUNITY PROPERTY” LAW APPLIES IN OTHER STATES FOR SPOUSES

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

SPOUSE CAN CLAIM “ELECTIVE SHARE” INSTEAD OF THEM FOLLOWING WILL

A spouse if unhappy with what a Will and other transfers may give them has a right to instead choose (elect) an “Elective Share” of a dead spouse’s property and money rather than take what a Will says they get. Most states do this for a spouse for fairness, so a spouse has resources to live on, and so early divorce isn’t the only way to be financially secure. In Iowa the Elective Share is basically 1/3 of property and money of the first spouse to die with some exceptions. This may include personal property, real estate, and property held in trust. See *Iowa Code* § 633.238. Also, a surviving spouse instead of taking 1/3 of all decedent’s real property may instead choose to stay in decedent’s homestead for their lifetime. Obviously if a spouse uses the Elective Share and other rights to get some of decedent’s property and money this may use up much of decedent’s things and may interfere with other things. To avoid a spouse wanting to use the Elective Share and other rights most married people give over 1/2 their things to any spouse (including a family house).

YOUNG CHILD ISSUES

WILL CAN NAME “GUARDIAN” TO CARE FOR CHILD UNDER AGE 18

If a parent dies with a child under 18 any other natural or adopted parent (but not step-parent) then automatically gets control of the child's care including health care, school, and home, unless they are unavailable or proven unfit in court which is rare. But in case it is needed (like if later both parents die) a Will often names a healthy and willing family member or friend to be “Guardian” to care for a child and have these powers. Some states call this a “Guardian of the Person”.

WILL CAN NAME “CONSERVATOR” TO MANAGE A CHILD’S PROPERTY

Since a child until age 18 can't legally manage money or property a Will often names a person to act as “Conservator” to manage the child's property and money. They also say how to use this property and money for a child's costs (like school, living, and health care costs) till usually age 18 when all left goes to the child. Some states call this a “Guardian of the Estate”. Judges often hold a long yearly hearing to review spending. Anyone paying things for a child can ask to be paid back from the child's resources. Also, most Wills at the end also say an Executor may instead let a “Custodian” they pick manage a young child's property or money, spend it for their benefit, and at 18 give a child anything left. This is allowed by the new “Uniform Transfers To Minors Act” law which lets a Custodian do most what a Conservator does but with less work, cost, and delay.

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

This book's Will forms and most people in Iowa name the same person to be Guardian caring for a child and also be Conservator caring for a child's money and property. People can modify a Will to name different people for the 2 jobs if they really want. But naming different people is rarely worth the bother since parents dying is rare and rarely do children get money and property, people should trust a Guardian with money as well as a child, and a Guardian if they disagree on spending may be upset and try to sue the Conservator.

PERSON TO BE GUARDIAN OR BE CONSERVATOR MUST BE AT LEAST 18

A person must be at least age 18 to be a Guardian or to be Conservator, but a person needn't be a state resident or U.S. citizen or even have a clean criminal record. Being local does make this kind of work easier. Choice for these positions by the last living parent usually is followed. If no Will picks a person for a position or they're unavailable a judge can pick, but family may argue about who it should be. Judges can later block or remove a person who is doing a very bad job or who seems unsuitable like for past extremely bad crimes. Naming 2 people for a position to help a child to act at the same time is rare since the 2 people may argue and any 1 person named should be trusted, but some people do name a married couple in a stable marriage. Some Wills add a 2nd person to help a child in case the 1st person is later unavailable, like: “or if they are reasonably unable to serve I name ____ to serve”). But many people skip naming an additional person since it's rarely needed, if a problem is seen a Will can be re-done, and a judge always can name a person to act.

PICKING GUARDIANS RARELY MATTERS DESPITE PARENTS WORRYING

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

CHAPTER 6

BASIC IDEAS ABOUT HEALTH CARE FORMS

SOME BASIC IDEAS HELP PEOPLE UNDERSTAND HEALTH CARE FORMS

Some ideas help people understand health care forms.

■ By law people control their health care unless “incapacitated” by sufficient inability to a) communicate verbally or by notes, b) be rational, or c) be conscious. Unless incapacitated people just tell doctors what health care they want. In actuality most people keep control of health care till death or till no big treatment options remain, but people may worry they may be incapacitated a long time so they do health care forms.

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

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

■ In forms a person can be named to have control of health care if needed who is often called “Agent”.

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

■ Some **married people** do a form to give a spouse power over health care if they are 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 often people do 1 fairly long health care form with a spot to give someone power over health care and a spot for instructions. Other forms are usually only done by the oldest or sickest people.

■ For rare times stopping health care (“pulling the plug”) may matter 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 complex factors like pain, cost, hassle, suffering and time of treatment, beliefs, and chances of recovery;

-- a few people do a serious document to say to stop most health care if later doctors decide a person is incapacitated, 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 minor child under age 18. The word “Testament” is used in a Will since long ago this was a separate document done with a Will, and the person doing a Will for themselves is called the “Testator”.

FORM IS A WILL WITH SEVERAL PARTS

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

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

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

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

The 4th paragraph, “Administration”, has a space to name a Personal Representative to handle legal and other matters after a person’s death (some states and people use the old term “Executor” for this).

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

Last is paragraphs for person doing the Will and for 2 witnesses to date, sign, and put their 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 person named here has died before the Will maker then any other persons named here in this 1st space take their share, and
- 2) a 2nd space to name people to get things if all people named in the 1st space have died, and if any people named in the 2nd space have died their shares go to “lineal descendants” like their children.

Most people name in the 1st space a spouse or closest family or closest friends, and in 2nd space next closest family or friends. This may seem complex but usually those in the 1st space will get things.

TESTATOR AND 2 WITNESSES WHILE TOGETHER SIGN WILL

This Will must be signed by the Testator doing the Will in front of 2 persons acting as witnesses at least age 18 who then also sign. Testator should declare aloud to witnesses that this is Testator’s Will, and many people say a thing like: “My name is _____ and this is my Will that I do voluntarily and want you 2 people to witness”. Most people try to pick witnesses so no Will gift is going to them or their spouse, and so no witness is named as Executor or Guardian in the Will. Testator and witnesses should be in 1 room and see others sign. Witnesses just read the 1 paragraph they sign. A Will should be kept so it is found fast after a death.

LAST WILL AND TESTAMENT

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

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

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

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

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

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

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

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

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

My main residence is in the state of Iowa and its laws should apply to this Will.

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

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

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

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

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

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

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

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

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

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

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

I request and authorize any informal, summary, and quick probate or similar action. Any Personal Representative may act independently with no supervision of any court, including independent administration, and 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 any time they in their sole discretion chooses. Any Personal Representative is given all powers that may be given or held by law including powers listed in Iowa Code § 633.76 et seq which are hereby incorporated here.

I direct that any Personal Representative or Executor should be paid all their expenses and costs including any amounts they pay or advance to benefit the estate.

Any Personal Representative has sole discretion how to balance people's feelings and pick property or divide a gift to do a general gift or a gift to multiple persons.

Any Conservator or Guardian with property or money owned by a minor under 18 may use or invade the principal, sell the property, and do any other action without court action.

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

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

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

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

Any Personal Representative may at any time transfer money or property of a minor under age 18 to a Custodian to serve under the Iowa Uniform Transfers to Minors Act or a similar law anywhere. They may pick the Custodian including themselves but if they do not I name for this the person named Guardian in this Will.

TESTATOR

IN WITNESS WHEREOF, I have executed this Will this _____ day of _____, 20____.

Signature of Testator

WITNESSES

We, the undersigned, do hereby certify that _____, Testator, to us personally known, did in our joint presence, sign the foregoing instrument and declared the same to be their Will, and at their request and in their presence and in the presence of each other, do hereunto subscribe our names as witnesses thereto at the same time and place, all on the _____ day of _____, 20____.

Signature of Witness

Address of Witness

Signature of Witness

Address 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 the age of 18.

FORM IS A WILL WITH SEVERAL PARTS

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

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

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

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

The 4th paragraph, "Administration", has a space to name a Personal Representative to handle legal and other matters after a person's death (some states and people use the old term "Executor" for this).

The 5th paragraph, "Guardian", names a person to if needed care for minor children as Guardian and also if needed act as Conservator to manage a child's property and money.

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

The last paragraph is for person doing the Will and the 2 witnesses to fill out completely and sign.

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

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

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

Most people name in the 1st space a spouse or closest family or closest friends, and in 2nd space next closest family or friends. This may seem complex but usually those in the 1st space will get things.

TESTATOR AND 2 WITNESSES WHILE TOGETHER SIGN WILL

This Will after being filled out (except bits intentionally left blank) must be signed by the person doing the Will (the "Testator") in front of 2 persons acting as witnesses at least age 18 who then also sign the Will. Testator should speak and declare to witnesses that this is Testator's Will, and many people say a thing like: "My name is _____ and this is my Will that I do voluntarily and want you 2 people to witness". Testator and witnesses should be in 1 room and see others sign. Usually people try to pick witnesses so no Will gift is going to them or their spouse. Witnesses just read only the 1 paragraph that they are signing. Once completed a Will should be kept so it can be found quickly within weeks of the Testator's death.

LAST WILL AND TESTAMENT

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

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

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

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

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

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

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

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

5. GUARDIAN. I hereby name _____ to be if ever needed the Guardian of any minor child of mine and to have care, authority, custody, and other control of them (including as Guardian of the Person). I name this same person to be if needed Conservator for any minor child of mine or other minor and any such minor's child's property, money, and estate (including as Guardian of the Estate).

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

My main residence is in the state of Iowa and its laws should apply to this Will.

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

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

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

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

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

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

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

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

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

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

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

I 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 any time they in their sole discretion chooses. Any Personal Representative is given all powers that may be given or held by law including powers listed in Iowa Code § 633.76 et seq which are hereby incorporated here.

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 direct that any Personal Representative or Executor should be paid all their expenses

and costs including any amounts they pay or advance to benefit the estate.

Any Personal Representative has sole discretion how to balance people's feelings and pick property or divide a gift to do a general gift or a gift to multiple persons.

Any Conservator or Guardian with property or money owned by a minor under 18 may use or invade the principal, sell the property, and do any other action without court action.

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

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

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

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

Any Personal Representative may at any time transfer money or property of a minor under age 18 to a Custodian to serve under the Iowa Uniform Transfers to Minors Act or a similar law anywhere. They may pick the Custodian including themselves but if they do not I name for this the person named Guardian in this Will.

TESTATOR

IN WITNESS WHEREOF, I have executed this Will this _____ day of _____, 20____.

Signature of Testator

WITNESSES

We, the undersigned, do hereby certify that _____, Testator, to us personally known, did in our joint presence, sign the foregoing instrument and declared the same to be their Will, and at their request and in their presence and in the presence of each other, do hereunto subscribe our names as witnesses thereto at the same time and place, all on the _____ day of _____, 20____.

Signature of Witness

Address of Witness

Signature of Witness

Address 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 to help with the later small legal work involved with using a Will after a death. This form must be done with a notary. This form is not required to have a valid Will and is often skipped.

FORM HELPS TO LATER SHOW WILL WAS PROPERLY SIGNED

This form helps after a death when trying to use a Will to prove it was properly signed. If a Self-Proving Affidavit form is not done more work may be needed later, like later a witness to the Will must be found and say in court or submit a writing about how a Will was signed (if this isn't available other proof can be given). If this form is not done there is more risk a Will is not followed later. About half of Wills are done without a Self-Proving Affidavit mostly due to the hassle of using a notary each time a Will is done, since people expect to do a better Will later like when older, and since it mostly just saves later small work of people who are happy to do work to get things using a Will. Some 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 Self-Proving Affidavit form a notary (also called "notary public") must see the form signed by the Testator and the 2 witnesses to the Will signing, and then the notary signs and notarizes it. The form is often done a few minutes after a Will is signed but it also can be done much later (even years later) when Testator and 2 witnesses can meet a notary. Any notary will know how to fill out and sign the Self-Proving Affidavit. The Self-Proving Affidavit is then usually stapled or paper-clipped to a Will.

SELF-PROVING AFFIDAVIT

STATE OF IOWA)
COUNTY OF) SS:

We, the undersigned _____, _____,
and _____, the Testator and the Witnesses, respectively,
whose names are signed to the attached or foregoing instrument, being first duly sworn,
declare to the undersigned authority that at the date of the instrument, we all knew the
identity of each other; the instrument was exhibited to the Witnesses by the Testator, who
declared it to be the Testator's Will and was signed by the Testator or by another at the
direction of the Testator on the date shown in the instrument, and in the presence of each
other as subscribing Witnesses; that we, as Witnesses, declare to the undersigned authority
that in our presence the Testator executed and acknowledged such Will as the Testator's
Will and that we, in the Testator's presence, at the Testator's request, and in the presence of
each other, did subscribe our names thereto as attesting Witnesses on the date of such Will;
and that the Witnesses were 16 years of age or older and are fully competent witnesses.

Testator's Signature

Witness Signature

Witness Signature

Notary

Subscribed, sworn to, and acknowledged before me by the foregoing Testator and Witnesses this day of , 20 .

Notary Public

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”, a “Gift List”, or often 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 Iowa law 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 by law the Will is followed. If multiple Lists gift the same item the more recently done page controls. People can modify an existing List page if they then write a new date and signature on the page. But many people to make things clearer prefer to write out everything all at one time so it all has to same date to reduce chances of later confusion. To help avoid later delay this book’s form says a List not found within 90 days of a death will be ignored.

FORM CAN ONLY GIFT “TANGIBLE PERSONAL PROPERTY”

By law the form can only gift “tangible personal property”. So it can only gift tangible (touchable) things and not accounts or investments where ownership is tied to papers, accounts, or entity like a company. The form can only gift personal property so not real property (land or buildings) and not coin or paper money even if they’re old. Under the Iowa statute any items used in a trade or business can’t be given in this form at all. Most people use a List to gift clothes, furniture, vehicles, materials, personal tools, things used in a hobby, electronics, appliances, antiques, art, and jewelry. Improper property in a List is ignored.

It may help understanding to show the Iowa law allowing Lists, which says:

“633.276 Separate identification of bequest.

A will may refer to a written statement, letter, or list to dispose of items of tangible personal property not otherwise specifically disposed of by will, except tangible personal property used in trade or business.

Tangible personal property, for purposes of this section, includes household goods, furnishings, furniture, personal effects, clothing, jewelry, books, works of art, ornaments, and automobiles.

If the writing is dated and is either in the handwriting of the testator or is signed by testator, and if it describes the items and distributees with reasonable certainty, the personal representative shall distribute the described items of tangible personal property to the distributees entitled to them.

The writing may be referred to as one to be in existence at the time of the testator’s death.

The writing may be prepared before or after the execution of the will. The writing may be altered, added to, or changed in any respect by the testator after its preparation, and it may be a writing which has no significance apart from its effect upon the dispositions made by the will.

Property passing by the writing shall be considered as property passing as a specific bequest under will.

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

A List form to be legally valid just must be signed and usually dated by person who is doing the form. Once completed any List form pages are often kept with a Will. To cancel a List form it can be destroyed, crossed out, or just thrown away so it is not 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 multiple pages of these writings which should all be seen as a single
document with the more recently done page controlling if any gifts conflict.

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

PROPERTY ITEMS

NAMES OF RECIPIENTS

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

DATE: _____

SIGNED: _____

CHAPTER 11

FORM 5: DURABLE POWER OF ATTORNEY FOR HEALTH CARE DECISIONS

FORM CAN NAME HEALTH CARE AGENT AND GIVE INSTRUCTIONS

This form lets a person name someone as Agent and also give instructions to help control health care if a person is later incapacitated. This 1 form is often the only form to control health care that people ever do. This book's form is based on a statutory form found at Iowa Code § 144B.5 and is also partly based on the form available at www.iowalegalaig.org. Note, some people instead do a "Combined Form" that also has a Living Will (see next Chapter), and this Combined Form can be found online at www.iowabar.org.

FORM CAN NAME AGENT FOR HEALTH CARE AND GIVE INSTRUCTIONS

The form lets someone be named Agent to control health care if later the person doing the form is ever incapacitated. This person is also called the "attorney-in-fact". This form is often called the "Medical Power Of Attorney" form. Often named to be Agent is a trusted spouse, adult child, relative, or a very reliable friend. Naming a family member like a spouse as Agent can avoid their need to rush to see a judge for more power if a person falls ill. Workers at a place giving health care usually shouldn't be Agent unless they're a relative. A 2nd person can be named to serve if needed but this rarely matters and most people just skip this part. The form also has areas to give health care instructions but many people skip this since they trust the wisdom of their family or Agent for health care. Also if instructions aren't legally and medically clear this can cause big legal problems or delays with doctors or medical facility lawyers.

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

The form must be signed in front of either a notary who then notarizes it, or 2 witnesses at least age 18 who then sign. Witnesses cannot work at or be involved with any place providing health care to the person, and 1 of the persons acting as witnesses can't be related to the person by blood, marriage, or adoption. The form usually is shown to places that may give care to put in a person's medical file to read and follow. To cancel the form a person usually tells their doctor and any places that saw the form.

GENERAL INFORMATION REGARDING DURABLE POWER OF ATTORNEY FOR HEALTH CARE

1. “Health care” means any care, treatment, service, or procedure to maintain, diagnose, or treat an individual’s physical or mental condition. Health care decisions also include decisions about life-sustaining procedures, which means any medical procedure, treatment, or intervention which utilizes mechanical or artificial means to sustain, restore, or supplement a spontaneous vital function, and when applied to a person in a terminal condition, would serve only to prolong the dying process. Life sustaining procedure does not include administration of medication or performance of any medical procedure deemed necessary to provide comfort care or to alleviate pain.
2. The following individuals shall not be designated as the attorney in fact to make health care decisions under a durable power of attorney for health care:
 1. a health care provider attending the principal on the date of execution;
 2. an employee of such a health care provider unless the individual to be designated is related to the principal by blood, marriage, or adoption within the third degree of consanguinity.
3. The power of attorney for health care decisions may be revoked at any time and in any manner by which the principal declarant is able to communicate the intent to revoke, without regard to mental or physical condition. A revocation is only effective as to the attending health care provider upon its communication to the provider by the principal declarant or by another to whom the principal/declarant has communicated the revocation.
4. It is the responsibility of the principal declarant to provide the attending health care provider with a copy of this document.

SUGGESTIONS AFTER FORM IS PROPERLY SIGNED, WITNESSED OR NOTARIZED

1. Provide a copy to the designated attorney-in-fact (agent) and to alternate designated attorney-in-fact (if any).
2. Place original in a safe place known and accessible to family members or close friends.
3. Provide a copy to your doctor.
4. Provide a copy(s) to family member(s).

DURABLE POWER OF ATTORNEY FOR HEALTH CARE DECISIONS

(Medical Power of Attorney)

I, _____, hereby designate _____,
of _____,
(address, city, state and telephone number)

as my attorney-in-fact (my agent) and give to my agent the power to make health care decisions for me. This power exists only when I am unable, in the judgment of my attending physician, to make those health care decisions. The attorney-in-fact must act consistently with my desires as stated in this document or otherwise made known.

Except as otherwise specified in this document, this document gives my agent the power, where otherwise consistent with the laws of the State of Iowa, to consent to my physician not giving health care or stopping health care which is necessary to keep me alive.

This document gives my agent power to make health care decisions on my behalf, including to consent, to refuse to consent, or to withdraw consent to any care, treatment, service or procedure to maintain, diagnose or treat a physical or mental condition. This power is subject to any statement of my desires and any limitations included in this document. My agent has the right to examine my medical records and to consent to disclosure of such records. I also appoint my agent as my Personal Representative (as that term is used in the Health Insurance Portability and Accountability Act of 1996, as amended, and its promulgating regulations) and to have access to my personally identifiable health care and related information of all kinds in any form, and to execute any other document that may be required or requested in order to do so.

Additional provisions: _____
_____.
(attach additional pages if needed)

If the person designated as agent above is unable or unwilling to serve, I designate the following person to serve as my agent with the power to make health care decisions for me:

(name, address and telephone number).

Signed this _____ day of _____, 20____.

(Signature of Declarant / Principal)

Address: _____

SSN: # _____

IMPORTANT NOTE: THIS DOCUMENT MUST BE SIGNED BEFORE A NOTARY PUBLIC **OR** TWO WITNESSES. IF YOU HAVE QUESTIONS REGARDING THIS FORM OR NEED ASSISTANCE TO COMPLETE IT, YOU SHOULD CONSULT AN ATTORNEY.

(OVER)

NOTARY PUBLIC FORM

STATE OF IOWA, COUNTY OF _____, SS:

On this _____ day of _____, 20____, before me, the undersigned, a Notary Public in and for said state, personally appeared _____, to me known to be the person named in and who executed the foregoing instrument and acknowledged that he/she executed the same as his/her voluntary act and deed.

Notary Public in and for the State of Iowa

WITNESS FORM

We, the undersigned, hereby state that:

- we signed this document in the presence of each other and the Declarant;
- we witnessed the signing of the document by the Declarant or by another person acting on behalf of the Declarant at the direction of the Declarant;
- neither of us are health care providers who are presently treating the Declarant, or employees of such a health care provider;
- we are both at least 18 years of age; and
- at least one of us is not related to the Declarant by blood, marriage or adoption.

Signature of 1st Witness

Signature of 2nd Witness

(Type or Print Name of Witness)

(Type or Print Name of Witness)

Street Address

Street Address

City State Zip Code

City State Zip Code

CHAPTER 12

FORM 6: LIVING WILL

IN FORM CAN SAY TO STOP CARE IF DOCTORS LATER THINK IT WON'T HELP

This form lets a person do serious act of saying stop health care if a person is ever incapacitated and doctors later think it likely won't help. This form is also called by many people the "Health Care Declaration". This book's form is based on a statutory form found at Iowa Code § 144A.3 and also on the form available at www.iowalegalaig.org. Note, some people instead do a "Combined Form" that also has a Durable Power Of Attorney For Health Care (see previous Chapter), and this Combined Form can be found at www.iowabar.org.

FORM SAYS STOP CARE IF DOCTORS THINK ANY MORE CARE WILL HELP

This form does the serious act of saying if a person is ever incapacitated that health care should stop if doctors later think more care won't help. This usually means doctors later think a condition is terminal (a person will die within a year or so even if life-sustaining care is given) or a person will be in a persistent vegetative state (unaware of surroundings and unable to interact). Most people skip doing this form since it rarely matters, it is stressful to do, it is a hassle to arrange witnesses or a notary, and people trust their family or Agent for health care to be wise if a person is incapacitated and the issue of stopping care arises. This form is often called the "Health Care Declaration". Healthy people can do this form just in case.

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

The form must be signed in front of either a notary who then notarizes it, or 2 witnesses at least age 18 who then sign. Witnesses cannot work at or be involved with any place providing health care to the person, and 1 of the persons acting as witnesses can't be related to the person by blood, marriage, or adoption. The form usually is shown to places that may give care to put in a person's medical file to read and follow. To cancel the form a person usually tells their doctor and any places that saw the form.

GENERAL INFORMATION REGARDING LIVING WILLS

1. “Life-sustaining procedure” means any medical procedure, treatment, or intervention which utilizes mechanical or artificial means to sustain, restore or supplement a spontaneous vital function, and when applied to a person in a terminal condition, would serve only to prolong the dying process. “Life sustaining procedure” does not include administration of medication or performance of any medical procedure deemed necessary to provide comfort care or to alleviate pain.
2. The terms “health care” and “life-sustaining procedure” include nutrition and hydration (food and water) only when provided parenterally or through intubation (intravenously or by feeding tube). Thus, this document authorizes withholding nutrition or hydration that is provided intravenously or by feeding tube. If this is not what you want, you should set forth your specific instructions in the space provided.
3. The declaration relating to use of life-sustaining procedures may be revoked at any time and in any manner by which the principal declarant is able to communicate the intent to revoke, without regard to mental or physical condition. A revocation is only effective as to the attending health care provider upon its communication to the provider by the principal declarant or by another to whom the principal/declarant has communicated the revocation.
4. A declaration relating to use of life-sustaining procedures will be given effect only when the declarant’s condition is determined to be terminal or the declarant is in a state of permanent unconsciousness, and the declarant is not able to make treatment decisions.

SUGGESTIONS AFTER FORM IS PROPERLY SIGNED, WITNESSED OR NOTARIZED

1. Provide a copy to anyone whom you have designated to make health care decisions for you in a Durable Health Care Power of Attorney.
2. Place original in a safe place known and accessible to family members or close friends.
3. Provide a copy to your doctor.
4. Provide a copy(s) to family member(s).

DECLARATION RELATING TO USE OF LIFE-SUSTAINING PROCEDURES (Living Will)

If I should have an incurable or irreversible condition that will result either in death within a relatively short period of time or a state of permanent unconsciousness from which, to a reasonable degree of medical certainty, there can be no recovery, it is my desire that my life not be prolonged by the administration of life-sustaining procedures. If I am unable to participate in my health care decisions, I direct my attending physician to withhold or withdraw life-sustaining procedures that merely prolong the dying process and are not necessary to my comfort or freedom from pain.

This declaration is subject to any specific instructions or statement of desires I have added in "Additional Provisions" below.

Additional provisions:

Signed this _____ day of _____, 20_____.

(Declarant's Signature)

Address: _____

SSN: # _____

IMPORTANT NOTE: THIS DOCUMENT MUST BE SIGNED BEFORE A NOTARY PUBLIC OR TWO WITNESSES. IF YOU HAVE QUESTIONS REGARDING THIS FORM OR NEED ASSISTANCE TO COMPLETE IT, YOU SHOULD CONSULT AN ATTORNEY.

NOTARY PUBLIC FORM

STATE OF IOWA, COUNTY OF _____, SS:

On this _____ day of _____, 20_____, before me, the undersigned, a Notary Public in and for said state, personally appeared _____, to me known to be the person named in and who executed the foregoing instrument and acknowledged that he executed the same as his voluntary act and deed.

Notary Public in and for the State of Iowa

WITNESS FORM

We, the undersigned, hereby state that:

- we signed this document in the presence of each other and the Declarant;
- we witnessed the signing of the document by the Declarant or by another person acting on behalf of the Declarant at the direction of the Declarant;
- neither of us is a health care provider who is presently treating the Declarant, or an employees of such a health care provider;
- we are both at least 18 years of age; and
- at least one of us is not related to the Declarant by blood, marriage or adoption.

Signature of 1st Witness

Signature of 2nd Witness

(Type or Print Name of Witness)

(Type or Print Name of Witness)

Street Address

Street Address

City

State

Zip Code

City

State

Zip Code

CHAPTER 13

FORM 7: IOWA PHYSICIAN ORDERS FOR SCOPE OF TREATMENT

FORM SAYS STARTING IMMEDIATELY DO NOT TRY SOME HEALTH CARE

The Iowa Physician Orders For Scope Of Treatment form, often called the “IPOST” form, let a person say starting immediately do not try some health care listed in the form such as C.P.R. or heart defibrillation. This form is rarely used and usually only by the sickest or oldest people. The form is short and can be read fast (like by paramedics) and is often used outside a hospital or other facility, but it can be used inside these places too. Note, this IPOST form has mostly replaced the older “Do-Not-Resuscitate form” which is similar and still can be used in Iowa but only covers resuscitation.

FORM SAYS TO IMMEDIATELY NO LONGER TRY CERTAIN HEALTH CARE

In the form a person can say starting immediately certain medical care shouldn't be tried at all if they're incapacitated and health personnel are deciding what care to give. This form is rare and usually done only by the sickest or oldest people. A doctor or similar person must co-sign the form and think it's needed (like a person likely will die within a year from a terminal condition or may soon be permanently unconscious). The main thing the form does is say to not try to "resuscitate" to restart the heart or breathing or help with these, and this includes cardio-pulmonary resuscitation (C.P.R.) which is pushing chest and blowing air in lungs, electric shock to restart heart or get a stable heartbeat, and machines helping or forcing breathing. There are many other treatment options a person can select in the form to say they should not be tried, and a doctor can explain the treatment options in the form. A person with capacity still thinking fine can override the form like by saying this to doctors or not showing it to paramedics. Note, if a person falls ill even if they have done this form they are still usually taken to get pain relief and other comfort care.

FORM IS SIGNED BY A DOCTOR AND PERSON DOING THE FORM

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

Iowa Physician Orders for Scope of Treatment (IPOST)



First follow these orders, **THEN** contact the physician, nurse practitioner or physician's assistant. This is a medical order sheet based on the person's current medical condition and treatment preferences. Any **section not completed implies full treatment for that section**. Everyone shall be treated with dignity and respect.

Last Name

First/Middle Name

Date of Birth

A Check one	CARDIOPULMONARY RESUSCITATION (CPR): <u>Person has no pulse AND is not breathing.</u> ☐ CPR/Attempt Resuscitation ☐ DNR/Do Not Attempt Resuscitation			
B Check one	MEDICAL INTERVENTIONS: <u>Person has a pulse AND/OR is breathing.</u> ☐ COMFORT MEASURES ONLY Use medication by any route, positioning, wound care and other measures to relieve pain and suffering. Use oxygen, suction and manual treatment of airway obstruction as needed for comfort. Patient prefers no transfer to hospital for life-sustaining treatment. Transfer if comfort needs cannot be met in current location. ☐ LIMITED ADDITIONAL INTERVENTIONS Includes care described above. Use medical treatment, cardiac monitor, oral/IV fluids and medications as indicated. Do not use intubation, or mechanical ventilation. May consider less invasive airway support (BiPAP, CPAP). May use vasopressors. Transfer to hospital if indicated, may include critical care. ☐ FULL TREATMENT Includes care described above. Use intubation, advanced airway interventions, mechanical ventilation and cardioversion as indicated. Transfer to hospital if indicated. Includes critical care. Additional Orders: _____			
C Check one	ARTIFICIALLY ADMINISTERED NUTRITION Always offer food by mouth if feasible. ☐ No artificial nutrition by tube. ☐ Defined trial period of artificial nutrition by tube. ☐ Long-term artificial nutrition by tube.			
D	MEDICAL DECISION MAKING			
	Directed by: (listed in order of Iowa Code/Statute for Priority of Surrogates; check only one) ☐ Patient ☐ Durable Power of Attorney for Health Care ☐ Spouse ☐ Majority of Adult Children ☐ Parents ☐ Majority rule for nearest relative ☐ Other: _____		Rationale for these orders: (check all that apply) ☐ Advance Directives ☐ Patient's known preference ☐ Limited treatment options ☐ Poor prognosis ☐ Other: _____	
	Physician/ARNP/PA signature (mandatory)	Print Physician/ARNP/PA Name	Date	Phone Number
Patient/Resident or Legal Surrogate for Health Care Signature as identified above (mandatory)				Date

SEND IPOST WITH PERSON WHENEVER TRANSFERRED OR DISCHARGED

DOCUMENT THAT IPOST FORM WAS TRANSFERRED WITH PERSON

HIPAA PERMITS DISCLOSURE OF IPOST TO OTHER HEALTH CARE PROVIDERS AS NECESSARY

Information for Person named on this Form **Person's Name (print)** _____

This form records your preferences for life-sustaining treatment in your **current** state of health. It can be reviewed and updated by your health care professional at any time if your preferences change. If you are unable to make your own health care decisions, the orders should reflect your treatment preferences as best understood by your surrogate.

Contact Information

Surrogate (optional)	Relationship	Phone Number
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Directions For Health Care Professionals

Completing IPOST

- Must be completed by a health care professional based on patient treatment preferences and medical indications.
- IPOST must be signed by a physician, nurse practitioner or physician's assistant to be valid. Verbal orders are acceptable with follow-up signature by physician, nurse practitioner or physician's assistant in accordance with facility/community policy.
- Use of original form is strongly encouraged. Photocopies and FAXes of signed IPOST forms are legal and valid.

Using IPOST

- Any section of the IPOST not completed implies full treatment for that section.
- A semi-automatic external defibrillator (AED) should not be used on a person who has chosen "Do Not Attempt Resuscitation" unless otherwise specified.
- Deactivation of internal defibrillators if comfort measures only are in effect.
- Medications by alternative routes of administration to enhance comfort may be appropriate for a person who has chosen "Comfort Measures Only."

Voiding IPOST

- A person with capacity, or the valid surrogate of a person without capacity, can void the form and request alternative treatment.
- To void this form, draw line through sections A through C and write "VOID" in large letters across the form and sign and date that line if IPOST is replaced or becomes invalid.
- Any changes require a new IPOST.

Transferring/Discharging with IPOST

- The IPOST form belongs to the person.
- The IPOST form **MUST** accompany the person upon all transfers between care settings.
- Document that the IPOST was sent with the person.
- Recommended use at home: Advise patient they must keep IPOST in easily accessible location that the ambulance service could find if no family or friends present (example may be in an envelope or baggie on the refrigerator).

Reviewing IPOST

- This IPOST should be reviewed periodically whenever:
 1. The person is transferred from one care setting or care level to another, or
 2. There is a substantial change in the person's health status, or
 3. The person's treatment preferences change.

Reviewed by:	Date:	Reviewed by:	Date:	Reviewed by:	Date:

Prepared by:

Health Care Professional Preparing Form	Preparer Title	Phone Number	Date Prepared
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**ORIGINAL TO ACCOMPANY PERSON IF TRANSFERRED OR DISCHARGED
DOCUMENT THAT IPOST FORM WAS TRANSFERRED WITH PERSON**

CHAPTER 14

FORM 8: IOWA STATUTORY POWER OF ATTORNEY

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

This form lets a person give power to someone to do things with the person's property, money, and more. People also call this a "Financial Power Of Attorney". This is a statutory form found at Iowa Code § 633B.301. Note, this form is often called "durable" since it uses the more common option of saying it still has power if the person is later incapacitated. Note, this form is effective once signed which is now standard and skips the old option of a "springing power of attorney" that only has power once an event occurs (like a person has fallen ill).

FORM GIVES POWER TO LET SOMEONE DO THINGS

This form lets a person give power to do things with their money, property, records, and other things to someone trusted like a spouse, adult child, or friend. The person giving power is called "Principal" and person getting power called "Agent" (often also called "Attorney in Fact"). This form can let someone help pay bills, use accounts, buy or sell items, sign contracts, hire workers, take out debt, see records, and more. The form may help if a person is sick or busy, and may avoid having to use more serious legal options like a guardianship involving a court. A person who isn't incapacitated can overrule or fire the Agent at any time. Instructions or limitations for an Agent can be written but many people skip this since if things are unclear a bank or other party may delay or refuse to obey an Agent. In the form a person can say who'd they'd prefer as Conservator or Guardian for them if they fall ill and this is needed, and many people fill this in just in case.

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

The form lets a person say which more normal powers to give in the "General Authority" part, and most people give all these powers (by initialing the "All Preceding Subjects" line) because they trust their Agent and if power is not clear a bank or other party may hesitate or refuse to do what the Agent wants done. In the "Specific Authority" part some more risky powers can be given and most people skip all these powers.

DUE TO RISKS MANY SKIP THIS FORM OR CONSULT A LAWYER

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

PERSON SIGNS FORM IN FRONT OF A NOTARY

A person must sign the form in front of a notary who then notarizes it. Once it is done some cautious people quickly show the form to banks and similar places to explain they should follow the form later. When an Agent signs anything it should be like, for example: "Jane Smith signing as Agent under a Power of Attorney for Ann Hill". To cancel the form a person should tell Agent and take back all copies and maybe tell places that saw the form. The form's last page is a "Certification" that banks may ask Agent to later sign.

IOWA STATUTORY POWER OF ATTORNEY FORM

1. POWER OF ATTORNEY

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 but not limited to 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 Iowa Uniform Power of Attorney Act, Iowa Code chapter 633B.

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

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

Your agent is not entitled to compensation unless you state otherwise in the optional Special Instructions.

This form provides for designation of one agent. If you wish to name more than one agent, you may name a coagent in the optional Special Instructions. Coagents must act by majority rule unless you provide otherwise in the optional 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 upon signature and acknowledgment unless you state otherwise in the optional Special Instructions.

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

DESIGNATION OF AGENT

I, _____ (name of principal), name the following person as my **agent**:

Name of Agent _____

Agent's Address _____

Agent's Telephone Number _____

DESIGNATION OF SUCCESSOR AGENT(S) (OPTIONAL)

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

Name of Successor Agent _____

Successor Agent's Address _____

Successor Agent's Telephone Number _____

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 Iowa Uniform Power of Attorney Act, Iowa Code chapter 633B:

(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 shall 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.)

- _____ Amend, revoke, or terminate a revocable inter vivos trust, if authorized by the trust.
- _____ Agree to the amendment or termination of any other inter vivos trust.
- _____ Make a gift to an individual who is not an agent, subject to the limitations of the Iowa Uniform Power of Attorney Act, Iowa Code section 633B.217, and any special instructions in this power of attorney.

_____ Any such gift must be approved in writing by _____; or

_____ No third-party approval is needed.

_____ 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.

An agent that is not my ancestor, spouse, or descendant shall 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 optional Special Instructions.

You may give special instructions on the following lines:

This image shows a single sheet of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page. There are approximately 20 lines visible. The paper has a slight shadow on its right side, suggesting it's resting on a surface.

This power of attorney is effective immediately upon signature and acknowledgment unless I have stated otherwise in the optional Special Instructions.

NOMINATION OF CONSERVATOR AND GUARDIAN (OPTIONAL)

If it becomes necessary for a court to appoint a conservator 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 Telephone Number

Your Address

NOTARY: STATE OF IOWA, COUNTY OF _____

This document was acknowledged before me on _____ (date),
by _____ (name of principal).

Signature of Notary

Document prepared by: _____

2. 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 the principal and you. This relationship imposes upon you legal duties that continue until you resign or the power of attorney is terminated or revoked. You must do all of the following:

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.

Act in good faith.

Do nothing beyond the authority granted in this power of attorney.

Disclose your identity as an agent whenever you act for the principal by writing or printing the name of the principal and signing your own name as agent in the following manner:

_____ (principal's name) by _____ (your signature) as Agent

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

Act loyally for the principal's benefit.

Avoid conflicts that would impair your ability to act in the principal's best interest.

Act with care, competence, and diligence.

Keep record of all receipts, disbursements, and transactions made on behalf of the principal.

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.

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 any of the following:

Death of the principal.

The principal's revocation of the power of attorney or your authority.

The occurrence of a termination event stated in the power of attorney.

The purpose of the power of attorney is fully accomplished.

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 Iowa Uniform Power of Attorney Act, Iowa Code chapter 633B. If you violate the Iowa Uniform Power of Attorney Act, Iowa Code chapter 633B, 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.

AGENT'S CERTIFICATION OF VALIDITY OF POWER OF ATTORNEY AND AGENT'S AUTHORITY

(Optional to do later upon a bank's request)

STATE OF IOWA

COUNTY OF _____

I, _____ (name of agent), certify under penalty of perjury that _____ (name of principal) granted me authority as an agent or successor agent in a power of attorney dated _____.

I further certify all of the following to my knowledge:

The principal is alive and has not revoked the power of attorney or the power of attorney and my authority to act under the power of attorney have not terminated.

If the power of attorney was drafted to become effective upon the happening of an event or contingency, the event or contingency has occurred.

If I was named as a successor agent, the prior agent is no longer able or willing to serve.

Other: _____

(Insert other relevant statements)

SIGNATURE AND ACKNOWLEDGMENT

Agent's Signature

Date

Agent's Name Printed

Agent's Telephone Number

Agent's Address

NOTARY: This document was acknowledged before me on _____ (date),
by _____ (name of agent).

Signature of Notary

Document prepared by: _____

CHAPTER 15

FORM 9: IOWA DURABLE POWER OF ATTORNEY FOR MINOR CHILD

FORM LETS PARENT SHARE POWER WITH SOMEONE OVER CHILD UNDER 18

This form lets a parent of a child under age 18 share power over them with someone named in the form. This book's form is based on a form some legal aid groups use and it complies with Iowa Code § 633B.213 which says this kind of form can give power over a child. Many other states now allow this kind of form.

FORM CAN GIVE POWER TO SOMEONE OVER CHILD UNDER 18

In the form a parent called in the form the "Principal" can give some power over their children under 18 to a person they name who is called in the form the "Agent". The person who did the form can fire the Agent or overrule a decision. Often given power is a friend, teacher, or other family member who is watching a child for the parent. This form is sometimes used if a parent or child is away from the other for work, school, training, drug rehab, sports, prison, immigration, military, or long visit with family or friends. Some people do this if a very sick child is in hospital but only a non-parent can be there sometimes to make quick decisions. This form also can be done if a person watches a child for a few hours but very often, like if children after school go stay with other family. The form is mostly not done for brief situations like babysitter, daycare, short time with relatives, or anytime a parent can come quickly. This form may avoid need for more serious legal actions like doing at court a guardianship or change of custody. In Part 4 of the form a person must say when power of the form starts and ends, and most people say it starts immediately and ends at death.

FORM IS SIGNED BY PARENT WITH A NOTARY

The form must be signed by a parent in front of a notary who then notarizes it. Some people modify the form to add a 2nd parent to make it likelier people like doctors and teachers trust the form. Once done some cautious people quickly show the form to schools and doctors to tell them they should follow it later. Once signed usually a parent gives the form to the person getting the power to use whenever needed. To cancel things a person should tell the Agent and maybe places that saw the form.

IOWA DURABLE POWER OF ATTORNEY FOR MINOR CHILD

1. *Naming of Agent*

I, _____, as Principal of this Power of Attorney, appoint the person listed below as Agent for decisions about my minor child(ren) who shall have general authority over personal and family maintenance issues. The person who is Agent is:

Name: _____

Address: _____

City/State/Zip: _____

The child(ren) covered by this Power of Attorney are:

FULL NAME OF CHILD(REN)	DATE OF BIRTH

2. *Powers of Agent*

My Agent has the full power and authority to manage and conduct all of my affairs related to the child(ren) listed. But, it shall not be used to override my decisions. The power and authority of my Agent shall include, but not be limited to:

- Consent to and provide for all medical care;
- To have full access to all medical, psychological, agency, education, or other records for the listed child(ren);
- To receive educational reports and participate in all activities at any school or child care to the same extent that I would;
- To apply for benefits and participate in programs offered by any government body, administrative agency, person, or other entity;
- To have custody and physical care, and all parental rights for the listed child(ren).

3. ***Authorization To Release Information***

- I authorize any health care provider, health plan, laboratory, pharmacy, or insurance company, or other health clearinghouse, to release health information and medical records of the child(ren) to my Agent.
- This authorization includes health information and medical records of the child(ren) for any past, present or future medical or mental health conditions.
- I can revoke this authorization at any time by written notice to any provider. I have a right to inspect the disclosed information at any time. Released information may be re-disclosed and may no longer be protected by the Health Insurance Portability and Accountability Act of 1996 (HIPPA).
- I give my Agent the authority to serve as the personal representative regarding the child(ren) for all purposes of HIPPA.
- I authorize my Agent to sign, on behalf of the child(ren), any papers needed to implement health care decisions.

4. ***Effective Date And Durability (Check all that apply.)***

This Power of Attorney is effective (check one)

- ☐ a. starting on _____.
- ☐ b. whenever I am unable or unavailable to make decisions or care for my minor child(ren) listed.

This Power of Attorney shall not be affected by my disability.

I may revoke this Power of Attorney by providing written notice to my Agent.

If not revoked, it shall be effective (check one).

- ☐ c. until _____.
- ☐ d. death.

My Agent shall not be liable for an error in judgment made in good faith, but shall only be liable for willful misconduct or breach of good faith.

5. *Signature*

Date

Parent's signature

Parent's printed name

Address: _____

City/State/Zip: _____

NOTARY: STATE OF IOWA, COUNTY OF _____) ss:

This instrument signed and acknowledged before me on this _____ day of
_____, 20____, by _____ (parent's name).

NOTARY PUBLIC FOR THE STATE OF IOWA

Instructions for DURABLE POWER OF ATTORNEY FOR MINOR CHILD

Paragraph 1

Put in the name of the parent in the first blank. On the next blank, put in the name and address of the agent. The next blank can be used if the parent wants to list a back-up person. If there is no one else, just write "none." In the box, put in the child's full name and date of birth.

Paragraph 2

Read carefully.

Paragraph 3

Read carefully. Some information can only be released if specifically stated.

Paragraph 4

Select either (a) or (b). If the power of attorney is to start on a specific date, check (a) and fill in the date when the power of attorney begins. This can be the date the parent signs. Option (b) is for situations where the parent is still going to be caring for the child, but just wants to have something in place, in case of some unexpected problem.

Select either (c) or (d). If the power of attorney is to end on a specific date, check (c) and fill in the date when the power of attorney ends. Check Option (d) if there is no specific end date. Remember, this Power of Attorney can be revoked at any time by the parent.

Paragraph 5

The parent must sign it in front of a notary. The parent should have identification. Print the parent's name and address and fill in the date that the parent is signing. The notary will fill in the rest.

Make copies for the school, the child's doctor, and others who will need to know.

Remove the instruction sheet before making copies or giving the form out.

CHAPTER 16

FORM 10: DECLARATION OF DESIGNEE FOR FINAL DISPOSITION

LETS PERSON BE NAMED AND INSTRUCTIONS GIVEN TO HANDLE DEAD BODY

This form lets someone be named and instructions given by a person to control their body after death (their “remains”) and related things like funeral, burial, cremation, ceremonies, and buying things for all this. This is a statutory form found in law for people to find and use if wanted, and it is at Iowa Code § 144C.6.

CAN NAME PERSON TO CONTROL DEAD BODY AND GIVE INSTRUCTIONS

The form lets a person (called the “Declarant”) designate someone (who is called the “Designee”) to control the person’s dead body and related issues like funeral, burial, cremation, ceremonies, and buying goods and services for these. If this form is not done under Iowa law control of all this is by closest family which is usual (spouse, children, parents, then siblings). People do this form rarely usually if it seems family may be too upset while mourning, be bad with money, or do unwanted things. Payment for these things comes from pre-paid funeral accounts, insurance, and a dead person’s or estate’s money and property, and family and Executor legally must pay for things using these resources. The form has a spot for instructions but many people skip this and trust the Designee or family to do what the person mentioned they wanted. Some people use the instructions area to say if they’ve pre-arranged or pre-paid any funeral and burial things, if they have purchased a burial plot, and what money they think should be used to pay for things. Note, more and more people write they want “Direct Burial” or “Direct Cremation”, and this is a cheaper option done fast in a few days and without family watching, and then often family hold a “Celebration Dinner” either without the body at all or when family later get the ashes or can visit the grave. About a third of people choose cremation and not burial since it is cheaper. Normally people including family should do the funeral, burial, and other things the dead person wanted if their properly, money, and estate can afford it.

SIGN FORM WITH NOTARY OR 2 WITNESSES

To complete the form it is signed by a person either in front of a notary who then notarizes it, or in front of 2 people acting as witnesses who then sign it too. A person named as the Designee can’t be a witness. Once done the form should be given to someone to hold or put in a place it can be found quickly within just a few days of a death.

DECLARATION OF DESIGNEE FOR FINAL DISPOSITION

I hereby designate _____
_____ (name and address) as my designee.

My designee shall have the sole responsibility for making decisions concerning the final disposition of my remains and the ceremonies to be performed after my death. This declaration hereby revokes all prior declarations. This designation becomes effective upon my death.

My designee shall act in a manner that is reasonable under the circumstances.

I may revoke or amend this declaration at any time. I agree that a third party (such as a funeral or cremation establishment, funeral director , or cemetery) who receives a copy of this declaration may act in reliance on it. Revocation of this declaration is not effective as to a third party until the third party receives notice of the revocation. My estate shall indemnify my designee and any third party for costs incurred by them or claims arising against them as a result of their good faith reliance on this declaration.

(Note: The Declarant may designate one or more alternates as designee but does not have to.)

Other: _____

I execute this declaration as my free and voluntary act.

Signed on _____, 20_____.

Signature of Declarant

This Declaration must be witnessed by two persons or notarized.

DECLARATION OF DESIGNEE FOR FINAL DISPOSITION [CONTINUED]

Type or Print Declarant's Name

Street Address

City, State and Zip

NOTARY

State of Iowa, County of _____

This record was acknowledged before me on _____,
by _____ (the Declarant).

Signature of Notary Public

WITNESSES

By signing this form, I declare that I signed this form in the presence of the other witness and the Declarant and I witnessed the signing by the Declarant or other person acting on the Declarant's behalf at the direction of and in the presence of the Declarant.

Signature of 1st Witness

(Type or Print Name of 1st Witness)

Street Address

City, State, Zip

Signature of 2nd Witness

(Type or Print Name of 2nd Witness)

Street Address

City, State, Zip

APPENDIX: SAMPLE FILLED OUT FORMS

TO GET FORMS TO USE PEOPLE CAN:

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

EMAIL ANY COMMENTS TO DAVENPORTPRESS@GMAIL.COM.

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

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

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

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

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

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

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

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

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

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

LAST WILL AND TESTAMENT

I, Paul Samuel Maxwell, of Muscatine County, Iowa, do revoke all prior Wills, Testaments, and Codicils, and do make, publish, and declare this as my Will. I am of sound mind and under no duress or undue influence and acting voluntarily.

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

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

SKIPPED

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

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

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

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

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

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

My main residence is in the state of Iowa and its laws should apply to this Will.

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

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

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

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

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

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

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

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

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

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

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

I request and authorize any informal, summary, and quick probate or similar action. Any Personal Representative may act independently with no supervision of any court, including independent administration, and 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 any time they in their sole discretion chooses. Any Personal Representative is given all powers that may be given or held by law including powers listed in Iowa Code § 633.76 et seq which are hereby incorporated here.

I direct that any Personal Representative or Executor should be paid all their expenses and costs including any amounts they pay or advance to benefit the estate.

Any Representative has sole discretion how to balance people's feelings and pick property or divide a gift to do a general gift or a gift to multiple persons.

Any Conservator or Guardian with property or money owned by a minor under 18 may use or invade the principal, sell the property, and do any other action without court action.

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

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

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

Any Executor or Personal Representative may at any time transfer money or property of a minor under age 18 to a Custodian to serve under the Iowa Uniform Transfers to Minors Act or a similar law anywhere. They may pick the Custodian including themselves but if they do not I name for this the person named Guardian in this Will.

TESTATOR

IN WITNESS WHEREOF, I have executed this Will this 22nd day of June, 2022.

Paul Samuel Maxwell

Signature of Testator

WITNESSES

We certify that the above instrument was on the date thereof signed, sealed and declared by the Testator, *Paul Samuel Maxwell*, as the Testator's Will in our presence and that we, in the Testator's presence and in the presence of each other, have signed our names as witnesses thereto, believing the Testator to be of sound mind at the time of signing and over the age of 18 years.

Eve Mable Rogers

Signature of Witness

14 2nd St., Des Moines, IA 50031

Address of Witness

Mary Ann Moon

Signature of Witness

835 Buffalo Road, Boise, ID 83701

Address of Witness

**Sample Filled Out Form: Last Will and Testament (Guardian)
with Residue Clause using percentages**

LAST WILL AND TESTAMENT

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

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

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

I give big oak table to Anne J. Smith .

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

I give 63 Ivy Road, Davenport, Iowa to Kenneth Victor Poppler.

I give all real property and fixtures I own in Polk County, Iowa to
Amy Marie Fox and Pamela Sue Fox .

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

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

I give wedding ring to Ruth Jones.

I give all jewelry not given above to Kay Baxter .

I give \$781.35 to Mary Natalie Swanson .

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

I give 1998 Ford truck to John Rupert Smith .

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

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

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

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

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

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

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

5. GUARDIAN. I hereby nominate and name Karen Lisa Fox my sister to be if needed the Guardian of any minor child of mine and to have care, authority, control, custody, and all other control of them (including as Guardian of the Person). I also nominate and name this same person to be if needed Conservator for any minor child of mine or other minor and the minor child's property, money, and estate (including as Guardian of the Estate).

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

My main residence is in the state of Iowa and its laws should apply to this Will.

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

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

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

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

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

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

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

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

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

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

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

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

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

I direct that any Personal Representative or Executor should be paid all their expenses and costs including any amounts they pay or advance to benefit the estate.

Any Conservator or Guardian with property or money owned by a minor under 18 may use or invade the principal, sell the property, and do any other action without court action.

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

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

Any Executor or Personal Representative may at any time transfer money or property of a minor under age 18 to a Custodian to serve under the Iowa Uniform Transfers to Minors Act or a similar law anywhere. They may pick the Custodian including themselves but if they do not I name for this the person named Guardian in this Will.

TESTATOR

IN WITNESS WHEREOF, I have executed this Will this 30th day of December, 20 19.

Paul Brian Kent
Signature of Testator

WITNESSES

We, the undersigned, do hereby certify that Paul Brian Kent, Testator, to us personally known, did in our joint presence, sign the foregoing instrument and declared the same to be their Will, and at their request and in their presence and in the presence of each other, do hereunto subscribe our names as witnesses thereto at the same time and place, all on the 30th day of December, 20 19.

Olivia Joy Pawlenty
Signature of Witness

87 Forest Road, Charleston, IA 50001
Address of Witness

Roy Felix Pawlenty
Signature of Witness

87 Forest Road, Charleston, IA 50001
Address of Witness

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

LAST WILL AND TESTAMENT

I, **David Eric Smith**, of **Story County**, Iowa, do revoke all prior Wills, Testaments, and Codicils, and do make, publish, and declare this as my Will. I am of sound mind and under no duress or undue influence and acting voluntarily.

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

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

I give \$1000 to Baker Food Shelf in Marshalltown, Iowa.

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

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

4. ADMINISTRATION. I name and appoint **Ann Sue Baker** as Personal Representative including for me, my Will, and my estate.

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

My main residence is in the state of Iowa and its laws should apply to this Will.

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

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

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

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

A gift of property no longer owned by Testator at death shall lapse and be of no effect

including no payment of money shall be done in its place, and all without ademption.

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

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

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

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

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

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

I request and authorize any informal, summary, and quick probate or similar action. Any Personal Representative may act independently with no supervision of any court, including independent administration, and 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 any time they in their sole discretion chooses. Any Personal Representative is given all powers that may be given or held by law including powers listed in Iowa Code § 633.76 et seq which are hereby incorporated here.

I direct that any Personal Representative or Executor should be paid all their expenses and costs including any amounts they pay or advance to benefit the estate.

Any Representative has sole discretion how to balance people’s feelings and pick property or divide a gift to do a general gift or a gift to multiple persons.

Any Conservator or Guardian with property or money owned by a minor under 18 may use or invade the principal, sell the property, and do any other action without court action.

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

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

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

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

Any Personal Representative may at any time transfer money or property of a minor under age 18 to a Custodian to serve under the Iowa Uniform Transfers to Minors Act or a similar law anywhere. They may pick the Custodian including themselves but if they do not I name for this the person named Guardian in this Will.

TESTATOR

IN WITNESS WHEREOF, I have executed this Will this **21st** day of **June**, 2021.

David Eric Smith

Signature of Testator

WITNESSES

We, the undersigned, do hereby certify that **David Eric Smith**, Testator, to us personally known, did in our joint presence, sign the foregoing instrument and declared the same to be their Will, and at their request and in their presence and in the presence of each other, do hereunto subscribe our names as witnesses thereto at the same time and place, all on the **21st** day of **June**, 2021.

Harriet Potter

Signature of Witness

42 Spruce St, Bloomington, IA, 50508

Address of Witness

Ann Paula Blom

Signature of Witness

370 Broadway Ave, West Ames, IA 50505

Address of Witness

Sample Filled Out Form: Self-Proving Affidavit

SELF-PROVING AFFIDAVIT

STATE OF IOWA)
) SS:
COUNTY OF Story)

We, the undersigned David Eric Smith, Harriet Potter and Ann Paula Blom, the Testator and the Witnesses, respectively, whose names are signed to the attached or foregoing instrument, being first duly sworn, declare to the undersigned authority that at the date of the instrument, we all knew the identity of each other; the instrument was exhibited to the Witnesses by the Testator, who declared it to be the Testator's Will and was signed by the Testator or by another at the direction of the Testator on the date shown in the instrument, and in the presence of each other as subscribing Witnesses; that we, as Witnesses, declare to the undersigned authority that in our presence the Testator executed and acknowledged such Will as the Testator's Will and that we, in the Testator's presence, at the Testator's request, and in the presence of each other, did subscribe our names thereto as attesting Witnesses on the date of such Will; and that the Witnesses were 16 years of age or older and are fully competent witnesses.

David Eric Smith

Testator's Signature

Harriet Potter

Witness Signature

Ann Paula Blom

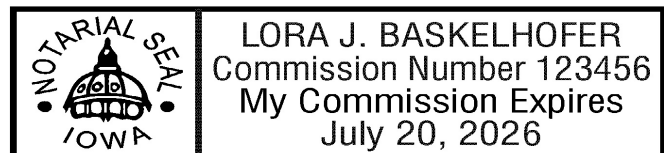
Witness Signature

Notary

Subscribed, sworn to, and acknowledged before me by the foregoing Testator and Witnesses this 21st day of June, 2021.

Lora J. Baskelhofer

Notary



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 multiple pages of these writings which should all be seen as a single document with the more recently done page controlling if any gifts conflict.

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

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

DATE: 8-15-2002 SIGNED: David Eric Smith