
Legal Affairs Worksheet

USUHS Office Of The General Counsel

(301) 295-3028

PRIVACY ACT STATEMENT

AUTHORITY: United States Code, Title 10, Section 8072. **PRINCIPAL PURPOSE:** To assist an attorney in the preparation of a client's legal document. **ROUTINE USES:** To provide an attorney with sufficient information to draft a client's legal document. The Office of the General Counsel may, but need not, maintain a file copy. **MANDATORY OR VOLUNTARY DISCLOSURE AND EFFECT ON INDIVIDUAL BY NOT PROVIDING INFORMATION:** Disclosure is voluntary, but nondisclosure prohibits preparation of the requested document(s).

Welcome to the USUHS Office of the General Counsel. This worksheet will answer common questions concerning wills and other legal documents, prepare you to discuss your needs and desires with an attorney, and provide a convenient form to record important information. After you complete this worksheet, and if you determined to have at least one document prepared, please make an appointment to consult an attorney in this Office. If you do not understand any part of this worksheet, leave the question blank and discuss it with your attorney during the interview.

WHAT IS A WILL? A will is a legal document that states your desires concerning what will happen to your property after your death. A will also contains other specific directions from you concerning who is to implement your instructions and, perhaps, who will care for any minor children you may leave behind.

WHY SHOULD I MAKE A WILL? If you die without a valid will, the laws of your domicile or state of legal residence determine what happens to your property. Your state of domicile may or may not be the state where you die. Your wishes usually will not be considered.

DO YOU WANT A WILL?

YES (Complete Part II)

NO

WHAT IS A GENERAL POWER OF ATTORNEY? A general power of attorney is a document that allows someone else to act as your legal agent. Thus, a power of attorney can be used to allow your agent to conduct your financial affairs for you during a time of incapacity. A general power of attorney has the potential for being very useful and very dangerous. You are legally responsible for the acts of your agent, and therefore must exercise great care in selecting the person to be your agent.

DO YOU WANT A GENERAL POWER OF ATTORNEY?

YES (Complete Part III)

NO

WHAT IS AN ADVANCED MEDICAL DIRECTIVE? An Advanced Medical Directive, also called a Living Will, sets forth your wishes about what life-prolonging treatment should be withheld or provided if you become unable to communicate those wishes. Your doctor is under a duty to honor your instructions

WHAT IS A MEDICAL POWER OF ATTORNEY? A Medical Power of Attorney, or Durable Power of Attorney for Healthcare, is a special power of attorney. A Medical Power of Attorney allows you to appoint an agent to make decisions about your medical care if you are unable to do so.

DO YOU WANT AN ADVANCED MEDICAL DIRECTIVE AND/OR A MEDICAL POWER OF ATTORNEY?

YES (Complete Part IV)

NO

Part I - Client Information

PRINT YOUR FULL NAME (FIRST, MIDDLE, LAST):

YOUR STATUS: ACTIVE DUTY MILITARY; SPOUSE OF ACTIVE DUTY MILITARY; RETIRED MILITARY; SPOUSE OF RETIREE; DEPENDENT OF ACTIVE DUTY MILITARY; DEPENDENT OF RETIREE; OTHER

DOMICILE (STATE OF LEGAL RESIDENCE):

MARRIED?

YES NO

FULL NAME OF SPOUSE:

IS YOUR SPOUSE A U.S. CITIZEN?

YES NO

FULL NAMES OF CHILDREN (specify if adopted or stepchild):

Last Name:

First Name MI:

SSN:

Part II - Wills

DISTRIBUTION OF PROPERTY

IS ALL OF MY PROPERTY CONTROLLED BY MY WILL WHEN I DIE? No! For example, proceeds of life insurance policies (including SGLI) are distributed as you designated in the insurance policy, and property that you own jointly with another person will, normally, go to the other joint owner. Likewise, certain bank accounts which are payable on death go directly to the beneficiary. Property passed to beneficiaries in these ways avoids the probate proceeding.

WHAT IS PROBATE? Probate is a court procedure by which a will is proved to be valid or invalid. Probate proceedings also address the administration of your estate, taxes, the guardianship of children, etc.

WHAT CAN I DO WITH MY PROPERTY? You can dispose of your property any way you wish, although state law may give your spouse and/or your children a right to part of your property regardless of your desire. Many married persons leave all their property to their spouse, and, if their spouse does not outlive them, then to their children. The provisions of your will DO NOT control life insurance proceeds, including SGLI, nor any other property that passes to beneficiaries outside of the probate proceeding.

CAN I GIVE SPECIFIC THINGS TO SPECIFIC PEOPLE? Yes, these are called specific bequests and you may make them by fully describing what you want to give and the person who is to receive it. You should be careful about specific bequests. If you dispose of the property that you describe, or if there is any doubt about the exact property that you have described in your will, you may be creating difficulties for your personal representative.

HOW DO YOU WANT TO DISPOSE OF YOUR TANGIBLE PERSONAL PROPERTY? (Tangible personal property is property owned by you at the time of death {except cash} including, without limitation, personal effects, household goods, clothing, jewelry, furniture, vehicles, etc.)

- all to your spouse
- all to your children
- as provided with regard to the residuary estate
- all to one beneficiary (enter name):
- other (describe disposition and shares):

DO YOU WANT ADOPTED OR STEPCHILDREN TO BE EXPRESSLY INCLUDED _____, OR EXPRESSLY EXCLUDED _____?

ARE THERE TO BE SPECIFIC BEQUESTS? (enter description of property and the person who is to receive it):

HOW DO YOU WANT TO DISPOSE OF YOUR REMAINING PROPERTY? (Called your residuary estate, it is the remaining property {usually cash and real estate} after the tangible personal property has been disposed of and specific bequests made.)

- to your spouse outright
 - if spouse predeceases, to your children per stirpes. (Per stirpes is a method of distribution whereby the descendants of your child receive that child's share of the estate if your child has died before the estate is distributed)
 - a minimum bequest to spouse (disinheriting spouse to the extent permitted by law) [balance to ___your children or ___other beneficiaries]
 - to your children per stirpes [outright or in trust]
 - to one beneficiary outright
 - to one beneficiary in trust
 - to more than one beneficiary, in ___equal or ___unequal shares, either outright or in trust
- Enter any specifics:

Last Name:

First Name MI:

SSN:

DO YOU WANT TO DESIGNATE ALTERNATE BENEFICIARIES? The alternate beneficiary may be an individual or group of people, and you can designate a series of alternate beneficiaries:

AT WHAT AGE DO YOU WANT YOUR CHILDREN TO RECEIVE THEIR INHERITANCE?

OUTRIGHT 18 21 (OTHER - specify age)

PERSONAL REPRESENTATIVE

WHAT IS A PERSONAL REPRESENTATIVE? A personal representative or executor is a person that you name in your will to carry out your desires, as expressed in your will, and to settle your estate. Settlement includes paying, from your estate, any taxes and debts you may owe. Many married people name their spouse as their personal representative. Your personal representative will have an important role; choose him or her with care, and discuss the matter with him or her. Be sure that the person you name is one you trust and have confidence in.

WHO DO YOU WANT TO APPOINT AS YOUR PERSONAL REPRESENTATIVE?

your spouse

your spouse and a co-personal representative

your spouse and one or more successor personal representative

one personal representative (other than your spouse)

one personal representative and one or more successor personal representative

two co-personal representatives

If a co-personal representative fails to qualify -

the other may act alone

the other may appoint a new co-personal representative

another co-personal representative is to be designated in this Will

Other than your spouse, enter the name(s) and relationship to you of the personal representatives you appoint:

TRUST OR UGMA/UTMA

WHAT IS A TRUST AND HOW MIGHT IT BE USED FOR THE BENEFIT OF MY CHILD(REN)? A trust is similar to a bank account that you create for your children; the property you leave to your children automatically goes into it if you establish one. When your child reaches a certain age that you specify in your will, all the money that remains in the account is distributed to the child. If you have more than one child, each child receives his or her share of the account when he or she reaches the required age. A “separate” trust sets up an account for each of your children. A “unitary” trust creates one account that all of your children share and none of the children will receive his or her share until the youngest reaches the distribution age. You appoint a “trustee” who is legally responsible for the account to watch over the account and distribute money to your children. The trustee should be a person you have confidence in, someone who knows your children and understand their needs.

ARE THERE ALTERNATIVES TO A TRUST AVAILABLE? Yes. Specifically, the Uniform Gifts to Minors Act (UGMA) or the Uniform Transfers to Minors Act (UTMA) creates custodianships which are generally recognized in state law and may be preferable to creating a trust in your will. If one or more of the beneficiaries in your will is a minor, the custodian you appoint establishes an UGMA/UTMA account for each minor. Like a trustee, the UGMA/UTMA custodian will be charged with administering the funds for the benefit of your children. Unlike a trustee, the custodian’s duties and responsibilities are defined in state law rather than in your will. **IF YOU WANT AN UGMA/UTMA CUSTODIANSHIP ESTABLISHED INSTEAD OF A TRUST, DO NOT APPOINT A TRUSTEE IN THE NEXT QUESTION.**

Last Name:

First Name MI:

SSN:

IF THERE IS TO BE A TRUST, DO YOU WANT TO APPOINT -

- one trustee
 - one trustee and one or more successor trustee
 - two co-trustees
- If a co-trustee fails to qualify -
- the other may act alone
 - the other may appoint a new co-trustee
 - another co-trustee is to be designated in this will

Enter the name(s) and relationship to you of the trustees you appoint:

GUARDIAN

WHO IS A GUARDIAN? A legal guardian is the person who will act as the parent for any of your children who are minors when you die. Normally, if your spouse survives you, he or she becomes the children's guardian if he or she is the biological or adoptive parent of the children. However, it is recommended that you name a guardian and an alternate guardian in the event that both you and your spouse die. If you or your spouse have children not born of your current marriage, you should discuss the situation in detail with an attorney to determine the most appropriate way to provide for the children.

IN THE EVENT THAT THE OTHER PARENT OF YOUR MINOR CHILD(REN) DOES NOT SURVIVE YOU, DO YOU WISH TO APPOINT -

- one guardian
- a guardian and one or more successor guardians
- two co-guardians
- no guardian is to be appointed in this Will
- and appoint a conservator of the children's property (in jurisdictions where appropriate)

Enter the name(s) and relationship to you of the guardians you appoint:

MAKE NOTES BELOW ABOUT ANYTHING ELSE ABOUT YOUR WILL THAT YOU WANT TO DISCUSS WITH YOUR ATTORNEY:

Part III - General Power of Attorney

WHOM DO YOU WANT TO NAME AS YOUR AGENT?

Name of Agent:

Relation:

Address of Agent:

Last Name:

First Name MI:

SSN:

Part IV - Advance Medical Directive and Medical Power Of Attorney

Standard instructions are:

If I should have an incurable or irreversible condition that will cause my death within a relatively short period of time, it is my desire that my life not be prolonged by administration of life-sustaining procedures.

If my condition is terminal and I am unable to participate in decisions regarding my medical care treatment, I direct my attending physician to withhold or withdraw procedures that merely prolong the dying process and are not necessary to my comfort or to alleviate pain.

I do not want medical treatment that will keep me alive if:

I am unconscious and there is no reasonable prospect that I will ever be conscious again (even if I am not going to die soon in my medical condition) or:

I am near death from illness or injury with no reasonable prospect of recovery.

I do want medicine and other care to make me more comfortable and to take care of pain and suffering. I want this even if such treatment makes me die sooner.

Please modify as appropriate!

DO YOU WANT TO PROVIDE INSTRUCTION ABOUT THE PROVIDING OF OR DENIAL OF ARTIFICIAL NOURISHMENT?

YES NO

DO YOU WISH TO PROVIDE ANY ADDITIONAL INSTRUCTIONS?

NO YES (Print instruction below)

WOMEN: DO YOU WANT THIS DIRECTIVE TO BE IN EFFECT IF YOU ARE PREGNANT?

YES NO

DO YOU WANT TO NAME AN AGENT IN A MEDICAL POWER OF ATTORNEY TO MAKE MEDICAL DECISIONS FOR YOU?

NO YES (Print information below)

Name of Agent: Relation:

Address of Agent:

DO YOU WANT TO NAME AN ALTERNATE AGENT IN A MEDICAL POWER OF ATTORNEY TO MAKE MEDICAL DECISIONS FOR YOU?

NO YES (Print information below)

Name of Agent: Relation:

Address of Agent: