

# YOUR WILL AND ESTATE PLANNING GUIDE



Having an up-to-date will is one of the most loving things you can do for your family. It can help shelter them from stressful decisions and provide answers when they need them most.

This guide helps you discover:

- What you should know before having your will prepared.
- How you may be able to reduce attorney costs.
- Why you need to make other future provisions in addition to a will or revocable trust.

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## COUNTING ON YOU

**Your spouse. Your child.**

**Your loved ones.**

These people count on you each and every day. Having your will created or updated is one of the most loving things you can do for your family. During an already difficult time, it will help shelter them from stressful decisions and provide clear answers.

If you have thoughtfully planned ahead, your loved ones can also be assured that your wishes will be carried out and your affairs will be settled in an orderly way after you're gone. Taking legal steps today to prepare for tomorrow puts you in control of your assets and the way that they are distributed.

This guide, can help you begin your estate planning process. In addition, for the most up-to-date information, contact the appropriate professionals, , a tax advisor and an accountant.



### PLANNING FOR YOUR FUTURE

Basic estate planning is important for all adults. Money and possessions are never ends in themselves. They are tools to be used to care for people and for the world around us. People generally are concerned about what happens to their resources upon death and also have a sense of caring that prompts them to look ahead.

#### Understanding estate planning

This guide can help you prepare for working with your estate planning attorney to develop or update your estate plan. Preparing an estate plan, including a will, power of attorney and advance medical directive (and, perhaps, a revocable trust as well), is a legal process that requires the professional skills and the advice of an estate planning attorney. Your attorney will want to understand your needs, ideas and goals in order to draw up documents that will meet your personal objectives. This guide will help you:

- Think about what you want to accomplish through your estate plan.
- Collect the information that you will need to provide to your estate planning attorney.
- Do it! Have your estate plan documents drafted or reviewed by your estate planning attorney.

#### Reviewing your estate plan

Even the most well-designed estate plan should be reviewed at regular intervals to help ensure that it still fits changing personal situations and goals. Any of the following reasons should prompt a review of your estate plan:

- Change in marital status.
- Birth of a child.
- Death of a spouse or child.
- Change in the status of your children or grandchildren, such as changes in health, reaching the age of majority, marriages, divorces, bankruptcies, etc.
- Starting or terminating a business.
- Moving to another state.
- Acquiring or inheriting property.
- A significant increase in property value.
- Change in charitable interests.
- Retirement.
- Change in life insurance program.
- Change in needs or desires for preferred fiduciaries (guardian for children, personal representative, trustee, attorney-in-fact, health care agent).
- Changes in federal or state laws, especially those dealing with estate tax or inheritance tax.

### **Using this guide**

This guide is not intended to provide legal advice. It contains general information about wills and other estate planning issues. It raises questions for you to consider and contains charts to help you in gathering information. If you are better prepared when you visit your attorney, your discussions may take less time, which may help reduce the cost. This guide also contains suggestions for selecting an estate planning attorney if you don't have one.

Receiving the greatest benefit from this guide will require some effort on your part. You'll be asked to gather information and discuss sensitive issues with your family and others, including your representative, estate planning attorney and accountant. These efforts will prepare you to discuss your objectives and help you arrive at a plan you feel good about and that handles your affairs in the way that you intend.

**Remember, the information you enter in this guide is not a substitute for estate planning or a will, but merely a starting point.**

After you have completed the estate planning process, this guide can be a helpful record of insurance contracts and other important information. Keep it in an accessible place with photocopies of your signed estate planning documents, and let other family members know where to find it when needed.



## BENEFITING FROM AN ESTATE PLAN

Property is transferred at death by one of several methods. It can pass under the terms of a will or revocable trust, by beneficiary designation (e.g., life insurance, retirement assets) or by operation of law (e.g., property held in joint tenancy, property with a transfer on death designation, intestacy laws). Generally, property that is solely owned that does not transfer by one of the above methods will pass upon death in accordance with your estate planning documents.

### Taking care of the basics

Wills and trusts are legal documents that give instructions about the distribution of your estate upon your death and the people who will carry out that distribution. These documents, written by a qualified estate planning attorney, are one way to ensure proper distribution of your estate. An experienced estate planning attorney can help ensure that your estate plan is complete, accurate and legally enforceable in your state of residence. This attorney also can ensure that your beneficiary designations on assets that pass outside of your will or trust coordinate with your overall estate plan. The expenses and taxes saved can far exceed the cost of having a will prepared professionally.

### Passing away without a will

When an individual dies and there is no will, that person is said to have died intestate. When this happens, the person's probate property is distributed according to state intestate laws. It is possible the property will not be distributed as the person had wanted. This same situation may occur with a will that has not been drafted by an attorney.

### Relying on joint tenancy

You may wonder if owning property in joint tenancy (that is, joint ownership with survivorship rights) is a substitute for estate planning. It is not. Joint tenancies apply only to the property described in the instrument creating it. Jointly owned property is generally not passed under the terms of your will. It

should be noted that for certain kinds of property, joint tenancy may be a useful legal device in conjunction with estate planning documents—but owning property in joint tenancy is not an estate plan by itself.

### Joint tenancy:

- Passes the property to the surviving joint tenant by operation of law.
- Only provides for distribution upon the death of the first joint owner. Does not dispose of assets upon the death of the surviving joint tenant, which may mean that the portion of the property owned by the first joint tenant to die may not be honored by the last surviving joint tenant.
- Generally creates a legal title in the names of the joint owners at the time it is titled in joint tenancy. This title may not subsequently be changed without the consent of the other joint owner(s).
- May be considered a gift and subject to gift taxes when changing legal title to jointly owned property. This is generally not the case when the property is being titled in joint tenancy between spouses. However, it may be the case when property is titled jointly with another person, such as a child, sibling or parent.

**A will, on the other hand, enables you to:**

- Exercise your right to determine which assets will be distributed to whom, as well as how and when.
- Name your personal representative to serve without bond, thus saving your estate money.
- Recommend guardians for your children.
- Designate the source from which estate settlement costs are to be paid.
- Use the marital deduction and applicable credit amount effectively to save any estate taxes.
- Make provisions for the distribution of property in the event both spouses die at the same time.
- Make special bequests to individuals, churches, educational institutions and charities.
- Create testamentary trusts for loved ones to protect them by providing professional asset management.

**Overcoming obstacles**

The greatest obstacle preventing some people from completing a will is not the cost, but the uncomfortable feelings associated with death—especially their own.

a will is a positive instrument. It's a reflection of the way you'd like to see your gifts used to care for your loved ones and make this a better world.

You can start developing your will by following these three simple steps:

1. Complete the following forms and questions in this guide.
2. Assemble the indicated papers and records.
3. Make an appointment to meet with your estate planning attorney. If you don't have an attorney, see the section "Selecting an Attorney" on page 18 of this guide.



## SETTLING YOUR ESTATE

### **Making it a smooth process**

Most complete estate plans, at a minimum, include a:

- Will.
- Durable power of attorney.  
(See page 10.)
- Advance medical directive. (See pages 34 and 35 for more information.)
- Health care agent form. (See page 35.)

Trusts may be another important planning tool. And in community/marital property states, a community/marital property agreement could be one of the key components of your estate plan. Your estate planning attorney can help you decide which tools will work best for you and your loved ones.

When you have an estate plan that includes a will, the process of settling your estate may take several months. However, without the plan, the process may continue for as long as several years—and your assets may not be distributed as you would have desired. If you have a will, the actual settlement is managed by the personal representative you choose. Otherwise, the court will appoint an administrator for your estate.

### **Naming a personal representative**

Naming your spouse or an adult son or daughter can save the fee for a personal representative. Alternate representatives should be named in the event the designated person dies or is unable or unwilling to serve. It's often helpful to name a bank or trust company as your personal representative when the estate is large or unusually complex. Your estate planning attorney will advise you about this, as well as other provisions you'd like to include in your will.

So many factors influence estate settlement that it is difficult to generalize. Estate and gift taxes vary according to the size of the estate, the state you live in and other factors. The way your property is owned or titled greatly influences the process and the cost. The best advice is to have legal counsel and a will. This helps ensure the best plan of action to meet your individual needs.

Your personal representative, with the advice of your attorney, will help ensure that the following functions are completed according to your instructions and in the best interest of your beneficiaries.

### **The personal representative will:**

- Offer your will for probate.
- Gather and organize the assets of your estate.
- Establish an Employer Identification Number (EIN) for the estate.
- Pay your valid debts.
- Pay the estate's administrative expenses.
- Carry on or liquidate any investments or business interests you own.
- Pay your federal and state income and estate taxes.
- Make appropriate tax decisions under the Internal Revenue Code and state tax laws.
- Enforce claims on your behalf or on behalf of your estate.
- Make an accounting to the beneficiaries.
- Distribute the remaining assets according to the terms of your will.

Knowing these requirements should help you select your personal representative, since you know best about your own situation and needs.

**Whom would you recommend to be your personal representative?**

**Name:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**Relationship to you:** \_\_\_\_\_

**Whom would you recommend to be alternate representatives in case your first choice is unable or unwilling to serve?**

**Name:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**Relationship to you:** \_\_\_\_\_

**Name:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**Relationship to you:** \_\_\_\_\_

**Be sure to contact the individuals you've suggested and obtain their acceptance before naming them as personal representatives in your will.**

## SELECTING GUARDIANS

Guardians are persons appointed by the court to care for minor children and their property. They also may be appointed to care for adults who are no longer able to handle their own affairs due to an accident, medical condition or other issue. You can designate guardians in your will—rather than having the courts select them. The following will help guide you in this decision.

### Caring for your children

You can use your will to recommend guardians and alternate guardians for your children. Factors you might consider in choosing guardians include:

- Age.
- Relationship to your family.
- Where the guardian lives.
- Similarity of religion.
- Similarity of child-rearing philosophies.

Financial ability is another concern. However, your will can provide for property and funds to go directly to the guardians or through a trust arrangement to help cover the additional costs of caring for the children.

**Whom would you name as a guardian of your children?**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

**Whom would you name as an alternate guardian of your children?**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

Be sure to contact the persons you've recommended and obtain their acceptance before naming them as guardians in your will. You will want to discuss with them your hopes and dreams for your children.

Another issue is care of your pets. Consider whom you would want to care for your pets. You may want to have this information incorporated into your will.

## **Caring for your property**

### **Power of attorney**

This is a written document that enables you to designate an "attorney-in-fact" or "agent" to act on your behalf while you are still living. With a "general power of attorney" (sometimes referred to as a "statutory power of attorney"), the powers may be very broad. Some clients choose to limit the powers granted to their attorney-in-fact or agent, and different powers of attorney may be available in your state for these limited purposes. The attorney-in-fact is authorized to handle almost all legal obligations for you.

Under a "special power of attorney," the powers are very limited. With this document, for example, you can authorize another person to legally close the sale of your home while you are on vacation in another state.

Generally, either power of attorney is limited to acts performed while you are legally competent. All rights to act under either a general or special power of attorney end at the time of your death.

### **Do states have different laws governing powers of attorney?**

Yes. Most states have specific laws regarding powers of attorney and what transactions an attorney-in-fact can complete under certain powers. Therefore, it is important to discuss with your estate planning attorney what specific transactions you wish your attorney-in-fact to complete. For example, you may need to specifically include the power to make gifts on your behalf or change beneficiaries.



### **Durable power of attorney**

A power of attorney that is not terminated when you become disabled or incompetent is called “durable.” A durable power of attorney can be “immediate,” giving the attorney-in-fact (or agent) the authority to act prior to an incapacity. A durable power of attorney can also be “contingent” or “springing,” which means the attorney-in-fact is given the authority to act only when you become incapacitated. The durable power of attorney has been recognized in some form in all states.

With a durable power of attorney, you can authorize someone to handle all of your financial affairs in the event you are not able to do so, such as if you have a stroke and are left unable to communicate. This document can help you avoid a conservatorship over your property. (Note: All rights to act under the durable power of attorney end at the time of your death.)

**What type of power of attorney do you feel best fits your needs?** \_\_\_\_\_

**Whom would you name as your agent under a durable power of attorney?**

**Name:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**Phone:** \_\_\_\_\_

**Whom would you name as your alternate agent under a power of attorney?**

**Name:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**Phone:** \_\_\_\_\_

### **Caring for you**

#### **Advance medical directive and health care agent form**

See Section II, “Planning for the Direction of Your Future Health Care,” on page 34 in this guide. It describes how these documents can be used to extend your capacity to influence decisions about your medical treatment if you lose the ability to communicate.

**Whom would you name as your agent under a health care agent form?**

**Name:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**Phone:** \_\_\_\_\_

**Whom would you name as your alternate agent under a health care agent form?**

**Name:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**Phone:** \_\_\_\_\_

## INCLUDING TRUSTS IN YOUR PLAN

A trust is a flexible legal tool. It provides management of trust assets and distribution of trust funds to chosen beneficiaries. For estate planning purposes, your attorney is the best source of advice if you are considering a trust. Since a trust agreement is a legal arrangement, you will need to discuss its provisions and your requirements with your estate planning attorney.

Here are some terms to know for your discussions about trusts:

### **Living trust**

The “inter vivos” or “living” trust is created and operates while the grantor is alive. It can also provide for distribution of trust assets upon your death. It can be for the benefit of the grantor or for someone else.

### **Revocable trust**

This type of trust can be changed after it is created. A revocable trust is used when the grantor wants to control the trust. It is used for the management of property. Any property in the trust will be included in the grantor’s taxable estate at death. A revocable trust generally becomes irrevocable upon the death of the grantor(s).

### **Irrevocable trust**

The grantor in this trust gives up control and ownership of assets contributed to it. The trust can be set up to keep these assets out of the grantor’s estate for estate tax purposes.

### **What about estate taxes?**

Federal estate tax laws can change periodically. In addition, a number of states impose their own estate or inheritance taxes. Therefore, be sure to consult with a tax advisor about whether a trust would be helpful in minimizing estate taxes for your beneficiaries.



### **Testamentary trust**

This is a trust that is created by a will and becomes operative after the will maker (testator) dies. This type of trust is often used to care for and educate children if both parents die before their children have reached the age of majority, which falls between ages 18 and 21 in most states.

### **Credit shelter trust**

A will or trust may include provisions to divide the estate into two parts. This allows one portion to be placed in trust or distributed outright to a surviving spouse. The second portion is to be placed in trust for other heirs. The trust for the heirs is often called a "credit shelter trust." The surviving spouse will often receive income from both trusts. The trust for the other heirs can be kept out of the surviving spouse's estate and would not be subject to federal estate taxes at the death of the surviving spouse.

### **Life insurance trust**

This is a special type of trust commonly used in connection with family settlements and estate planning. Life insurance contracts can be transferred to or purchased by a revocable or irrevocable trust. Additionally, the trust is usually named the beneficiary of the insurance. If the life insurance is transferred to an irrevocable trust, the proceeds may not be subject to federal estate tax if the contract was transferred more than three years prior to the death of the insured.

### **Charitable remainder trust**

Charitable-minded people can gift assets to their own charitable remainder trust. In doing so, they may potentially bypass capital gains tax, receive an income tax deduction, and receive an income flow from the trust.

As you consider establishing a trust, answer the following questions.

Would any of the following persons benefit from having assets managed for them?

Please explain.

Spouse:

Children:

Other dependents:

Indicate how long you would like a trust for your children to manage their property.

Until age 18: \_\_\_\_\_

Until age 21: \_\_\_\_\_

Until age: \_\_\_\_\_

Youngest child is currently age: \_\_\_\_\_

### **Choosing a trustee**

Once you've determined that a trust works best with your goals, choose the trustee carefully. You've accumulated money and property through years of hard work. You should take time and care to find the trustee who is right for you. That person should be knowledgeable in managing investments.

Many trusts include cotrustees. Usually these include a corporate trustee (perhaps a trust company or a bank) plus one or more family members. A corporate trustee has the experience and expertise necessary to manage the trust assets.

A trust may span many years and several generations. A corporate trustee doesn't die, get sick or move away, and is also an impartial third party.

Whom would you name as a trustee?

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Whom would you name as successor trustee?

Name: \_\_\_\_\_

Address: \_\_\_\_\_

You should talk with an estate planning attorney who knows about trust agreements and their tax consequences to determine if a trust should be included in your planning.

## ANSWERING ESTATE PLANNING QUESTIONS

### Establishing priorities

Which of the following objectives are most important to you in considering your needs?

- Providing enough cash to meet your estate obligations (expenses of last illness, funeral, debts, taxes).
- Meeting the income needs of your family after your death.
- Transferring your farm or business in the way you'd like.
- Reducing taxes and administrative costs.
- Providing income during disability.
- Providing income during retirement.
- Providing an education for your children.
- Providing an income to a parent.
- Providing income for dependents other than immediate family.
- Leaving a bequest to a church or charity.
- Other:

Do you intend to make special bequests? If so, list specific items of personal property and the individual or charity to receive them.

ITEM	RECIPIENT

Tax considerations aside, in what manner do you want your estate to be distributed at death if:

Your spouse and children are living:

Only your children are living:

Neither your spouse nor your children are living:

Are there any special needs you want to provide for?

Education: \_\_\_\_\_

Special needs child:\* \_\_\_\_\_

Pets: \_\_\_\_\_

Other: \_\_\_\_\_

\*Persons are considered to have special health care needs if they have a physical, developmental, mental, sensory, behavioral, cognitive, or emotional impairment or limiting condition that requires medical management, health care intervention, and/or use of specialized services or programs. The condition may be developmental or acquired and may cause limitations in performing daily self-maintenance activities or substantial limitations in a major life activity. Health care for special needs patients is beyond that considered routine and requires specialized knowledge, increased awareness and attention, and accommodation.

American Association of People with Disabilities (AAPD). 2005-2006. Reference Manual. "Definition of Persons with Special Health Care Needs, Originating Council on Clinical Affairs, Adopted 2004," 2005-2006.

## HAVING A DISCUSSION WITH YOUR FAMILY

If you're like most people, the main reason you want to distribute your estate thoughtfully is to care for your family and loved ones. A discussion with family members is a great opportunity for you to share your love for them and express your gratitude for what has given you.

You'll have to determine whom you want to include in your family discussion. Obviously, small children may not comprehend the nature of the discussion and probably need not be included. You may want to include persons who are not part of your immediate household but who are very close to you. Generally speaking, your family discussion should include all persons who will be affected by your estate plan.

You may wish to have two kinds of discussions with your family:

1. A discussion before you establish your estate plan will help you get information from your family that can be used to shape your estate plan.
2. Another family discussion after you've established your estate plan to inform your family about your decisions.

### **Meeting before you've developed your estate plan**

Bringing up the subject of estate planning with your family may sound difficult, but usually the hardest part is just getting started. The following may answer some of your questions about having this discussion:

### **Starting the discussion**

- Invite family members to come together to talk about your estate. You may want to use part of another family gathering for the discussion.
- Explain to your family the purpose of the discussion is to:
  1. Consider the effects of your estate plan on each of them.
  2. Share your tentative plans, and listen to their ideas and concerns.
- Emphasize that their feelings and ideas will be valuable in your planning, but the final decision about what to do with your estate is yours.
- Make a statement telling who is designated as agent under a power of attorney. That person can handle your financial affairs while you're still living, but sick or incapacitated.

### **Sharing key information**

- Explain steps you have already taken (completing a will, living will, health care agent form, durable general power of attorney, funeral arrangements, etc.).
- Outline exactly what constitutes your estate (real estate, stocks, trusts, etc.).
- Express your feelings for members of your family.
- Share your hopes and wishes regarding your finances, personal property and what becomes of your business or farm.

### **Asking for responses and questions**

- Discuss decisions that need to be made by you and members of your family.
- Identify questions and record the ones you're unable to answer.
- Discuss what kinds of future changes in your life or the lives of family members could affect your plans.
- Discuss your wishes for the care of your pets.
- Share your thoughts about what you would want done in terms of life-support measures if you should have a terminal illness or a life-threatening injury and be unable to communicate. Then invite your family members to respond and give their own points of view.

You may be surprised at your family's interest—or disinterest—especially when it comes to taking over the family business or owning a particular property. For example, a son or daughter may want property to pass directly to the grandchildren for tax purposes.

### **Meeting after you've developed your estate plan**

After you've established your estate plan, invite family members to come together again so you can share your plan with them. This time you'll want to:

- Emphasize that the plan you are sharing is the way you want your estate distributed.

- Inform them of additional steps you have taken (completing a will, living will, health care agent form, durable general power of attorney, funeral arrangements, trusts, etc.).
- Indicate the location of important documents and records (your will, insurance contracts, etc.). See "Keeping a Records Location List" on page 33.
- Share who your personal representative will be and what is expected of that person.
- Inform them of your decisions concerning medical treatment in the event of a life-threatening illness.
- Inform them about who will handle your financial and property decisions and who will make your medical care decisions if you lose the capacity to do so.

### **Changing your estate plans**

Estate plans can be changed. If you decide to change any part of your estate plan, you may want to discuss the changes with your family first.

Consider letting them know of any specific changes that are made.

## SELECTING AN ATTORNEY

You will need an estate planning attorney to assist you in legal aspects of planning and drafting your will and to help with other necessary legal documents. There are several different ways you can find an estate planning attorney to handle your legal affairs:

- Your representative may have firsthand knowledge of an attorney in your area whose practice is focused primarily on wills and estate planning.
- *Ask your friends or family for recommendations.* It's best to ask someone whose judgment you trust and who has had a positive experience with a lawyer.
- *Ask your employer's legal counsel for recommendations.* Also, the officers at your bank may be able to give you some additional information.

### Considering legal aid assistance

What if you simply cannot afford to pay an attorney's fee? Many communities have legal aid societies to provide legal services to those people who cannot afford an attorney. Most legal aid societies have strict requirements. Not all people qualify, but it's an alternative worth checking. Many law schools also provide legal assistance to people in need.

The cost of having a will written by an estate planning attorney will be based on the complexity of the document you want drafted. Simple wills can be affordable, and in many cases they save the family a great deal in the future in terms of time, money and suffering. Don't be penny-wise and pound-foolish when it comes to planning for your family's future.

## GATHERING NECESSARY DOCUMENTS FOR HAVING YOUR WILL PREPARED

Your estate planning attorney may need to see the following documents and information in order to draft your will:

- Prior wills.
- Deeds to real estate.
- Property appraisal reports.
- Trust agreements.
- Income tax returns for the past three years.
- Gift tax returns.
- Divorce decrees.
- Prenuptial or postnuptial agreements, marital or community property agreements.
- A list of specific personal property items you would like to distribute to specific individuals.
- Life insurance contracts.
- An inventory of savings, stocks, bonds and securities.
- Your pension or profit-sharing plan.
- Information about your employee benefit plans, including beneficiary designations.
- Business agreements (employment contracts, buy-sell or partnership agreements, etc.).
- Location of your safe deposit box and keys.



## COLLECTING FAMILY INFORMATION

1. Your full name: \_\_\_\_\_

Address: \_\_\_\_\_

Birth date: \_\_\_\_\_ State of health: \_\_\_\_\_

Occupation: \_\_\_\_\_ Employer: \_\_\_\_\_

Prior marriages—List name(s) of previous spouses, years married and whether the marriage ended because of death or divorce.

Prior state(s) of residence since marrying your current spouse—List each state and number of years resided there, like this: Iowa (2), Minnesota (10), Florida (5).

2. Your spouse's full name: \_\_\_\_\_

Address: \_\_\_\_\_

Birth date: \_\_\_\_\_ State of health: \_\_\_\_\_

Occupation: \_\_\_\_\_ Employer: \_\_\_\_\_

Prior marriages—List name(s), years married and whether the marriage ended because of death or because of divorce.

3. Child's full name: \_\_\_\_\_

Address: \_\_\_\_\_

Birth date: \_\_\_\_\_ Education completed: \_\_\_\_\_

If education not completed, list educational objective:

Source of support for any additional education: \_\_\_\_\_

Occupation: \_\_\_\_\_ Employer: \_\_\_\_\_

Child's spouse's name: \_\_\_\_\_ Birth date: \_\_\_\_\_

Child's children and ages. (List this way: John, 8; Mary, 6; Susan, 4.)

Child's full name: \_\_\_\_\_

Address: \_\_\_\_\_

Birth date: \_\_\_\_\_ Education completed: \_\_\_\_\_

If education not completed, list educational objective: \_\_\_\_\_

Source of support for any additional education: \_\_\_\_\_

Occupation: \_\_\_\_\_ Employer: \_\_\_\_\_

Child's spouse's name: \_\_\_\_\_ Birth date: \_\_\_\_\_

Child's children and ages. (*List this way: John, 8; Mary, 6; Susan, 4.*)

Child's full name: \_\_\_\_\_

Address: \_\_\_\_\_

Birth date: \_\_\_\_\_ Education completed: \_\_\_\_\_

If education not completed, list educational objective: \_\_\_\_\_

Source of support for any additional education: \_\_\_\_\_

Occupation: \_\_\_\_\_ Employer: \_\_\_\_\_

Child's spouse's name: \_\_\_\_\_ Birth date: \_\_\_\_\_

Child's children and ages. (*List this way: John, 8; Mary, 6; Susan, 4.*)

Child's full name: \_\_\_\_\_

Address: \_\_\_\_\_

Birth date: \_\_\_\_\_ Education completed: \_\_\_\_\_

If education not completed, list educational objective: \_\_\_\_\_

Source of support for any additional education: \_\_\_\_\_

Occupation: \_\_\_\_\_ Employer: \_\_\_\_\_

Child's spouse's name: \_\_\_\_\_ Birth date: \_\_\_\_\_

Child's children and ages. (*List this way: John, 8; Mary, 6; Susan, 4.*)

Child's full name: \_\_\_\_\_

Address: \_\_\_\_\_

Birth date: \_\_\_\_\_ Education completed: \_\_\_\_\_

If education not completed, list educational objective: \_\_\_\_\_

Source of support for any additional education: \_\_\_\_\_

Occupation: \_\_\_\_\_ Employer: \_\_\_\_\_

Child's spouse's name: \_\_\_\_\_ Birth date: \_\_\_\_\_

Child's children and ages. (*List this way: John, 8; Mary, 6; Susan, 4.*)

4. List any special needs in your family due to health or other circumstances:

5. Do you or your spouse have any children from a previous marriage or relationship? (Click in the appropriate box.)

You       Yes       No

Spouse       Yes       No

List names:

Have they been adopted?       Yes; by whom: \_\_\_\_\_       No

6. Are your parents living?

Mother       Yes       No

Father       Yes       No

Any special needs?

\_\_\_\_\_

Are your spouse's parents living?

Mother       Yes       No

Father       Yes       No

Any special needs?

\_\_\_\_\_

7. Are any of your siblings living?

Yes  No

Are any of your spouse's siblings living?

Yes  No

8. List any dependents other than your immediate family:

9. Advisors (include names and phone numbers):

Estate planning attorney: \_\_\_\_\_

Insurance representative: \_\_\_\_\_

Trust officer: \_\_\_\_\_

Accountant: \_\_\_\_\_

Banker: \_\_\_\_\_

## INCLUDING LIFE INSURANCE

Life insurance plays a major role in your estate planning. In the spaces below, list all of the life insurance contracts for you, your spouse and any minor children. Note if the plan is one that pays only if death is the result of an accident.

The insured	The beneficiary	The contingent beneficiary	Owner of the insurance	Company, type,** contract number	Amount payable at death*

Total amount payable at your death: \_\_\_\_\_

Total amount payable at death of your spouse: \_\_\_\_\_

\*Be sure to include any paid-up additions and loans as you determine each contract's value.

\*\*Type of insurance (e.g., whole life, term, variable)

### LISTING ANNUITIES

The annuitant	The beneficiary	The contingent beneficiary	Owner of the annuity	Company and contract number	Current value

# CREATING A PROPERTY INVENTORY

Attach additional sheets if necessary.

## Real estate

1. Address: \_\_\_\_\_  
 Owner(s): \_\_\_\_\_  
 How titled (joint tenants, tenants in common, etc.): \_\_\_\_\_  
 Fair market value: \_\_\_\_\_ Assessed value: \_\_\_\_\_  
 Mortgage (principal balance): \_\_\_\_\_ Mortgagee: \_\_\_\_\_  
 Date of acquisition: \_\_\_\_\_ Original cost or other basis: \_\_\_\_\_  
 Real estate insurance carrier: \_\_\_\_\_  
 Improvements (dates and cost): \_\_\_\_\_

2. Address: \_\_\_\_\_  
 Owner(s): \_\_\_\_\_  
 How titled (joint tenants, tenants in common, etc.): \_\_\_\_\_  
 Fair market value: \_\_\_\_\_ Assessed value: \_\_\_\_\_  
 Mortgage (principal balance): \_\_\_\_\_ Mortgagee: \_\_\_\_\_  
 Date of acquisition: \_\_\_\_\_ Original cost or other basis: \_\_\_\_\_  
 Real estate insurance carrier: \_\_\_\_\_  
 Improvements (dates and cost): \_\_\_\_\_

## Stocks and bonds

Company*	Number of shares	Type of security	Owner(s)	Market value	Original cost or other basis
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____

\*If any of the above stock is of a closely held or family corporation, please note that fact and complete the "Business Information" section on page 30.

**TIP: If you attach current account statements, you may not need to fill in some of the blanks below.**

**Mutual funds**

Name of fund	Account number	Owner(s)	Number of shares	Market value	Original cost

**Bank, credit union, savings and loan accounts**

(Include CDs and money market accounts)

Bank, credit union, savings and loan	Type of account	Average balance	Owner(s)

**Trust accounts**

Trustee/investment advisor, company	Successor trustee	Number of shares	Security	Market value	Original cost

### Mortgages, notes and cash

Does anyone owe you or your spouse a debt that is evidenced by a mortgage or note?  
If so, provide details or copies.

### Pension plans

(Include company pension plans, IRAs, 401(k)s, etc.)

Type of plan	Owner(s)	Beneficiary(ies)	Contingent beneficiary	Current value

### Other investments

(Include limited partnerships, options, etc.)

Type	Owner(s)	Company	Current value

### Other miscellaneous property

Describe and state approximate value of the following:

Vehicles (include name of owner):

Personal articles (clothing, jewelry, etc.):

Household items (furniture, etc.):

Other assets (collections, antiques, artwork, etc.):

## ESTIMATING THE VALUE OF YOUR ESTATE

Round off figures to nearest \$500.

### How property is owned

Assets (what is owned)	You	Spouse	Joint	Community*
Cash (loose/in checking)				
Savings accounts				
CDs, money market savings				
Notes receivable				
Stocks				
Bonds				
Mutual funds				
Residence (estimated market value)				
Other real estate				
Personal property (vehicles, jewelry, etc.)				
<b>Farm:</b> Land, buildings				
Livestock				
Crops (growing, in storage)				
Machinery				
Business interest				
Life insurance (total death benefit)				
Annuities				
Pension plans— 401(k), 403(b)				
IRAs				
Other investments				
Miscellaneous				

**Total assets:** \_\_\_\_\_

Liabilities (what is owed)	You	Spouse	Joint	Community*
Mortgages (unpaid balance)				
Taxes (income and real estate)				
Loans				
Insurance loans				
Current bills (credit cards, etc.)				
Miscellaneous				
Alimony or child support commitments				

**Total liabilities:** \_\_\_\_\_

Net worth	You	Spouse	Joint	Community*
Total assets				
Minus total liabilities				
Net assets				

Pre-nuptial or post-nuptial agreements?  Yes  No

\*Applicable in Alaska, Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas and Washington. Wisconsin has a similar concept called "marital" property. Consult with your estate planning attorney for more information.

Current gross annual income	You	Spouse
Salary		
Self-employment net income		
Investments		
Rents		
Interest/dividends		
Trusts		
Annuities/pension/IRAs		
Social Security		

**Total income:** \_\_\_\_\_

**Gross income for the last three years:**

Year \_\_\_\_\_

Year \_\_\_\_\_

Year \_\_\_\_\_

Sources of future income	You	Spouse
Company pension (current value)		
IRA		
Keogh		
401(k)		
403(b) TSA		
Other retirement plans		
Social Security benefits per year		
Inheritance From: From: From: From:		

### Business information

The value of a family business usually is a large portion of a family's estate. Transferring the business interest at death is one of the major decisions facing the business owner. Completing this section can help you develop goals and objectives concerning your business-transfer plans.

Name of business: \_\_\_\_\_ Address: \_\_\_\_\_

Nature of business: \_\_\_\_\_ Number of employees: \_\_\_\_\_

Title of owner: \_\_\_\_\_ Duties of owner: \_\_\_\_\_

Form of business:     Sole proprietorship     Partnership  
 Corporation     Limited liability company

What would be a fair price for your business? \_\_\_\_\_

What percentage of the business do you own? \_\_\_\_\_%

What percentage of your business is owned by other family members? \_\_\_\_\_%

By whom, and what percent do they own?

Does the business have an Employee Stock Ownership Plan (ESOP)?     Yes     No

Should your business be passed to your family at your death?  Yes  No

Do you have family members who are interested in and capable of taking on your responsibilities with the business?  Yes  No

If not, should it be sold?  Yes  No

To whom? \_\_\_\_\_

Do you have a buy-sell agreement?  Yes  No

What is the last valuation for the agreement? \_\_\_\_\_

<b>What employer-provided benefits do you have? (make an X)</b>	<b>You</b>	<b>Spouse</b>
Pension plan		
401(k), 403(b)		
SEP, SIMPLE, etc.		
Deferred compensation plan		
Salary continuation		
Major medical plan		
Income if disabled		
Employer group term life insurance		
Employer-provided long-term care insurance		

## Information about your farm

Keeping the farm in the family is a major objective of many farm owners. Unless proper plans are made, the result may be a forced sale. When this happens, a lifetime of work can be lost or severely damaged. Answer the following questions and see if your objectives will be accomplished.

Name of farm: \_\_\_\_\_

How is the farm's land owned? (Use the exact wording of the deed.) \_\_\_\_\_

If different from the land ownership, how is the farm *business* owned? \_\_\_\_\_

Whom do you want to own the farm after your death? \_\_\_\_\_

Do you have a will that transfers the farm to the correct person(s)?

Yes     No     Unsure

Does anyone have an option to purchase or right of first refusal on your farm?

Yes     No    If yes, who? \_\_\_\_\_

Have plans been made to transfer your farm at retirement?

Yes     No

With whom? \_\_\_\_\_

Which of your children have an interest in farming?

\_\_\_\_\_

Do you have a buy-sell agreement?     Yes     No

What is the market value of your:

Land and buildings \_\_\_\_\_

Machinery \_\_\_\_\_

Livestock/poultry \_\_\_\_\_

Crops \_\_\_\_\_

**Total value:** \_\_\_\_\_

Do you receive any oil or gas royalties?     Yes     No

Have you granted any oil, mineral or timber rights?     Yes     No

Are there conservation easements or other restrictions on the real estate?     Yes     No

Should the mortgage on the farm be paid at your death?     Yes     No

Does your estate have sufficient liquid assets to pay your estate settlement costs?     Yes     No

If yes, what assets should be used and where are they?

## KEEPING A RECORDS LOCATION LIST

Item	Where kept	Comments
Estate planning documents		
Trust documents		
Safe-deposit box and key		
Bank/savings and loan/credit union account records		
Certificates of deposit		
Mutual funds		
Pensions, IRAs, Keoghs		
Social Security records		
Veterans benefits		
Insurance contracts		
Deeds		
Stocks and bonds		
Loans—owed to us		
Loans—we owe		
Business records		
Real estate records		
Auto ownership certificates		
Current and past income tax		
Contracts		
Mortgage payment papers		
Credit cards		
Installment payments		
Warranties		
Will		
Birth certificate*		
Marriage certificate*		
Passport		
Other		

\*Keep your original signed will and an official birth certificate and marriage certificate in a safe-deposit box or a fireproof home safe to which a trusted friend or relative has access.

### PLANNING FOR THE DIRECTION OF YOUR FUTURE HEALTH CARE

There are other steps and important provisions you may want to make in addition to your will. One such provision is preparing an advance medical directive. Here is an example of why a person may want to have this document:

*Your mother has had another stroke. Her last one left her unable to talk or walk. Now she is in a deep coma. The doctor says she will probably never wake up, and he is wondering if CPR should be used in the event that her heart stops beating.*

*He asks if she has an advance medical directive. She does not. You are confused and bewildered.*

*Can the doctor just stop treating her? What if the doctor starts using treatments that you think your mother would not want?*

*Who decides? How?*

#### **Understanding the need for an advance medical directive**

Planning for the direction of your future health care is different from planning for the future of your estate. Variations of the incident described above occur repeatedly and unexpectedly every day. In each of these situations, someone will have to make decisions about your medical treatment when you cannot. Creating a separate document can assist with these issues.

An advance medical directive is a document that enables you to influence decisions about your medical care when you would otherwise be unable to do so. This document is part of an estate plan, and is often executed at the same time as your will. It is helpful in the following ways:

1. To ensure your medical care wishes will be honored even if you are unable to communicate.
2. To free your loved ones from having to make hard decisions at a time when they may be highly stressed.
3. To avoid the loss of your financial assets on medical treatments that may only prolong the process of your dying.

#### **What is an advance medical directive?**

An advance medical directive is a way of extending your decision-making rights concerning your medical care to situations that occur while you are unconscious, unable to competently make decisions or unable to communicate.

In the United States, conscious, competent adults have the legal right to accept or refuse medical treatment, even if their decisions seem unwise to their physician or to others. The law requires all physicians to adequately inform their patients of treatment benefits, risks and options so patients can make sound and well-informed decisions. This is called the patient's right to "informed consent."

An advance medical directive, or “health care directive,” is a written document that gives instructions to health care professionals about health care decisions that may occur in the future when you are unable to communicate or make competent decisions.

### **What is a living will?**

A living will is an advance medical directive that enables you to inform your physician, if you should become terminally ill and not able to communicate your wishes, that you would or would not want life-sustaining procedures used to extend the dying process. Additionally, a living will often includes your wishes regarding pain control.

A living will generally goes into effect only when you are unable to understand or express your health care choices.

### **What is a health care agent form?**

A health care agent form is another kind of advance medical directive. (It also is known as a power of attorney for health care, a health care surrogate document or a health care proxy.) With this document you appoint another person, usually called your “health care agent,” to make health care decisions for you if a time should come when you are not able to make them yourself. Your health care agent will have authority to make a wide range of health care decisions, such as whether or not you should have an operation, receive certain medications or be placed on life-support systems. The agent, in most states, also will be given access to medical records and given the power to request changes of physicians or other health care providers.

Because your health care agent will make decisions for you based on what he or she knows about you and your values and wishes, it is important to choose someone whom you trust and know very well. It is essential that you have a long conversation with the agent(s) whom you appoint to discuss your treatment preferences.

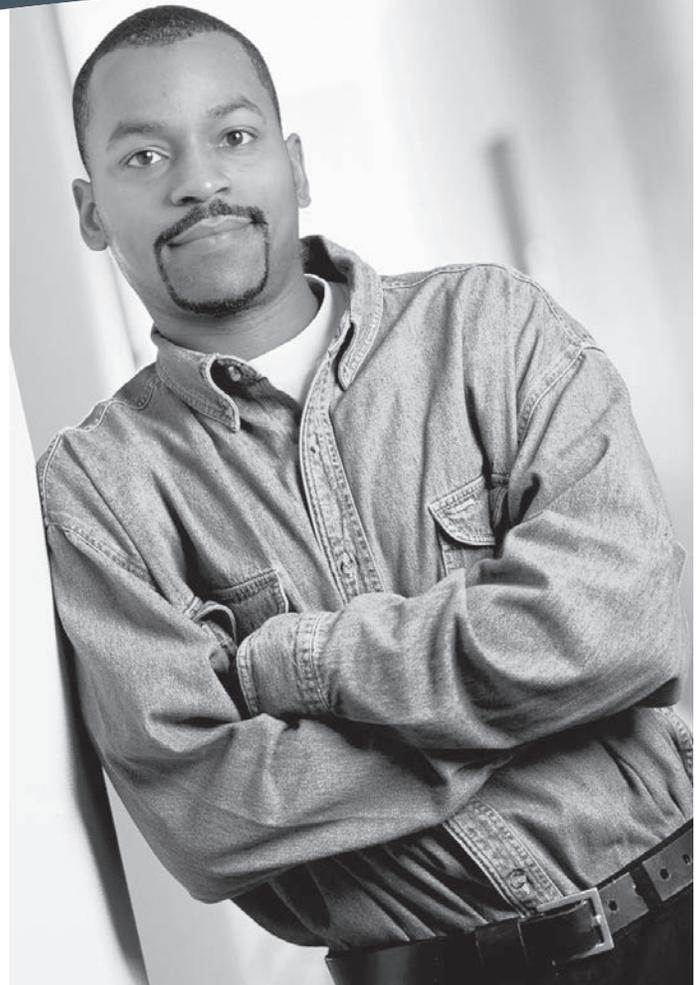


The health care agent form is a broad, flexible document that is different from a living will in three significant ways.

1. It enables you to appoint an agent who can act as decision-maker in your stead. When decisions need to be made, your agent can discuss the pros and cons with your physician and decide in accordance with your wishes and values, as known by your agent.
2. The health care agent form empowers your agent to oversee all of your medical care when you are no longer able. These decisions can involve more than just choices about life-sustaining treatments at the end of a terminal illness.
3. The health care agent form allows you to put specific instructions in writing for your agent to follow.

You are not able to do these three things with living wills.

The best way to determine which advance medical directive is better for you, or if it is advisable to use both a living will and a health care agent form, is to have a discussion with a local resource person. (See the section on page 37 titled “Developing an Advance Medical Directive.”)



### **Do states have different laws governing advance medical directives?**

Yes. Individual states have different laws for regulating medical decision-making. Although physicians and hospitals in all states generally will honor advance medical directives from other states, it is important that you know and use the forms and processes that are supported by the laws of the state in which you live. If you vacation in a certain state for long periods of time, it is wise to use the forms of that state as well. Work with your estate planning attorney or local resource person to make sure you have the appropriate information and documents.

All 50 states have laws that support the creation of at least one form of advance medical directive.

4. “Allowing death to come” needs to be distinguished from “mercy killing” or “euthanasia.” Mercy killing is an action taken with “the deliberate intention of causing death.” However, this is different from discontinuing or not using medical treatments that cannot cure a terminal condition, thus allowing death to take a natural course.
5. Whenever death approaches, efforts to provide and receive extra bonds of personal and spiritual caring are of primary importance. The dying process is a journey that can offer opportunities for profound experiences of reconciliation, love, peace and joy.

## **Developing an advance medical directive**

### **Gather information**

1. Get a copy of the advance medical directive form(s) used in your state. Also ask for any guidelines or other information that might be available. In most states, you will find that these documents can be obtained at minimal or no charge from any of the following places:
  - Hospitals: Hospital chaplains or social workers are generally good resources for accurate information and helpful counsel.
  - State office on aging.
  - Hospice services.
  - Attorneys: Estate planning attorneys can help ensure that all requirements are met in order for the form to be legally enforceable, advise you on content, and add language consistent with your individual situation.
2. Get information from your pastor or church body about advance medical directives, living wills and estate protection.

## Reflect

1. Spend some time reading and reflecting on the resources you have gathered.
2. Discuss what you have read and share your thoughts with a few trustworthy people. These may include pastors, family members, health care providers and good friends. You may find that writing out your thoughts, feelings, questions and opinions is helpful.

## Select and educate your health care agent

1. If you are thinking about creating an advance medical directive with a health care agent form, you will need to select an individual to be your health care agent. In some states, you also will need to select an alternate agent who will serve if your primary agent is unable to serve. The health care agent you appoint should be someone you trust, such as a good friend or a close family member. An assertive person who shares similar values and lives near you will be better able to monitor your health care, ask the right questions and ensure that your personal wishes are followed. In most states, this person cannot be your doctor.
2. Since your health care agent(s) may someday make significant decisions that could affect the quality of your life, it is essential that you talk extensively with them about your values, beliefs, commitments and preferences. The more they know of what is important to you and why, the better they will be able to speak and make decisions for you, if you should no longer be able to do so.



### **Complete the forms**

1. Give careful attention to all requirements for properly completing the forms. For example, determine whether witnesses must sign the forms. Also, if you are using the health care agent form, check all of the requirements for selecting your health care agents. Incomplete or improperly completed forms may not be valid.
2. Be certain that you read and fill in all of the blanks in the document. If you should read any sentences that are confusing or unclear, postpone signing the document until you have checked with a knowledgeable source and have come to clearly understand all that is written.
3. Make a list of everyone to whom you intend to give a copy of the document. Attach it to the original.

### **Let others know**

1. Make enough copies of your completed and witnessed advance medical directive so copies can be given to your physician, your health care agent (if you have used a health care agent form), your close family members, your pastor, your estate planning attorney and any other individuals who may be involved in your future care. In some states, only *original* advance medical directives are acceptable; photocopies are not. You may need to sign multiple originals.
2. When you give a copy to your primary physician, take time to discuss with him or her what you have decided and ask for assurance that your wishes will be honored. Also, ask your physician to place the document in your permanent medical record.

3. As you distribute the remaining copies to family members and others, take time to discuss your wishes with them and answer any of their questions. Also, take time to talk with your family about any disagreements or difficulties they may have in honoring your wishes.
4. Keep one copy with your other important papers in a safe, accessible place at home, and let close family members or friends know where it can be found. Do not put your only copy in your safe deposit box, because it is not an easily accessible location.
5. Use the cut-out card on page 45 to record the existence and location of your advance medical directive document(s). Place the completed card in your wallet.

### **Review your decisions periodically**

Your views, needs or wishes may change. Also, some state laws may invalidate medical directives after a certain number of years, or those created before a certain date. It is a good idea to periodically review your advance medical directive document(s). If you make any changes, inform those who already have copies.

## ANSWERING COMMONLY ASKED QUESTIONS

### **Q. How are advance medical directives different from guardianship?**

A. A legal guardian is a person appointed by a court to oversee and manage the personal rights of another person who is considered incapable of taking care of his or her own affairs. The powers of guardianship include the right to make health care decisions. The difference is that the court, not the individual, is making this appointment, and when the appointment is made, there is no longer an opportunity for the appointed guardian to talk with the incapacitated person to learn what his or her specific values, beliefs and wishes might be, pertaining to the use of life-sustaining treatments. In contrast, advance medical directives are created without costly or lengthy court involvement, which sometimes occurs with the establishment of guardianship.

### **Q. Is my health care provider required to follow my advance medical directive?**

A. Some health care providers and physicians may have policies or beliefs that prohibit them from honoring certain advance medical directives. It is important to discuss your advance directives with these people to make them aware of your wishes and to determine if they will honor them. If they will not, you may want to choose another health care provider.

### **Q. Do I need an attorney to create an advance medical directive?**

A. Although using an attorney is not required to create an advance medical directive, it is advisable. An attorney can help make certain that the document is properly executed.

### **Q. When do advance medical directives go into effect?**

A. Both living wills and health care agent forms become valid and effective as soon as they are properly filled out, signed and witnessed. They do not assume their power for directing your health care, however, until you are mentally or physically unable to make or express opinions. In most cases, two physicians or a physician and a psychologist must examine you to confirm that you are in this “incapacitated” state. Until that time, you will continue to make your own health care decisions in the same way that you do now.

### **Q. Should everyone have an advance medical directive?**

A. Only you can decide. Tragic and unexpected accidents or illnesses can happen to anyone at any age, and the special benefits of advance medical directives are of equal value whether the unconscious patient is 35 or 85 years old. When you document your wishes before a medical crisis occurs, you minimize family misunderstanding and disagreement. You also can be assured that your family and physician know what you want when you are no longer able to tell them yourself. This can be a gift of significant value.

**Q. How are conflicts resolved if family members disagree with each other or with a physician about medical treatment?**

A. In most hospitals, ethics committees have been created to provide forums for structured dialogue and assistance with the resolution of such conflicts. Ask your pastor, hospital chaplain or social worker about this resource. If such consultation does not result in resolution, legal counsel or a judicial decision should be sought.



### GLOSSARY

**Advance medical directive:** A document in which a person states wishes concerning the withholding of life-sustaining treatments and/or designates someone to make treatment choices for them should they lose their decision-making capacity. The term may also include verbal statements made to medical care providers concerning treatment.

**Ancillary probate:** An additional court proceeding in another state to distribute the property you owned in that state. Ancillary probate is a second process in addition to the regular probate process in your own state of residence. A revocable living trust is one tool used to avoid ancillary probate.

**Applicable credit amount:** A credit against the federal estate tax. Each person is entitled to a credit up to a certain amount to offset any federal estate tax otherwise due. Corresponds to the applicable exclusion amount.

**Applicable exclusion amount:** The amount each person may transfer at death without incurring federal estate tax.

**Artificial nutrition or hydration:** The provision of food or liquid by inserting a tube into a vein, the nose or stomach when a person is unable to swallow or eat well enough to meet the body's nutritional needs.

**Attorney-in-fact:** An agent named under a power-of-attorney document to handle a person's financial affairs on his or her behalf.

**Bequest:** A gift, by will, of personal property. But commonly used to describe all transfers made under a will.

**Bond:** A sum of money posted by the personal representative or trustee on the condition that the money will be forfeited if this person does not appropriately carry out the matters of the estate.

**Cardiopulmonary resuscitation (CPR):** A combination of medical procedures performed to keep oxygen and blood flowing through the body when the heart or breathing has stopped. CPR may include external chest compression, the administration of drugs, mouth-to-mouth breathing assistance and electric stimulation of the heart.

**Codicil:** A supplement to a will; it may explain, modify, add to, subtract from or revoke provisions in the existing will.

**Comfort care (palliative care):** When a person chooses to forego life-sustaining treatment, the purpose of continued medical treatment focuses on the relief of suffering and the provision of comfort, rather than on cure and the extension of life.

**Community property:** Property owned by a husband and wife in Alaska, Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas or Washington (see Marital Property for Wisconsin). Community property rules can affect the distribution of assets under a will.

**Decision-making capacity:** Individuals have the capacity for making their medical treatment decisions if they are of legal age, are able to understand the nature and consequences of their decisions, and are able to communicate those decisions effectively.

**Devise:** A gift, by will, of real estate. (Note: "Devise," with an "s," is the correct spelling of this legal term.)

**Do not resuscitate (DNR):** A medical order that clarifies that CPR will not be used when a patient's heart or breathing stops, because it will only prolong the dying process.

**Durable Power of Attorney:** A written document that enables a person (the "principal") to designate someone as the "attorney-in-fact" or "agent" to act on his or her behalf while the principal is still living. A *durable* power of attorney is one that is not terminated by the principal's subsequent disability or incompetence. All powers of attorney are terminated immediately on the death of the principal.

**Estate administration:** The process for collecting a decedent's assets, liquidating liabilities, paying taxes, and distributing property to heirs, carried out by the personal representative or executor under the supervision of the probate court.

**Estate planning:** The branch of law which, in arranging a person's property and estate, takes into account the laws of wills, taxes, insurance, property and trusts so as to gain maximum benefit of all laws while carrying out the person's own wishes for the disposition of property upon his or her death.

**Estate tax:** A tax imposed on the right to transfer property at death. The federal estate tax is imposed on transfers exceeding the applicable exclusion amount. States also may charge an inheritance or estate tax.

**Executor:** A person appointed by a Testator or Testatrix to carry out the directions and requests in his or her will, and to transfer the property according to his or her wishes. See also *personal representative*.

**Guardian:** A person with the power and duty of taking care of and/or managing the property and rights of another person who is incapable of handling his or her own affairs. The guardian's power is granted and overseen by the court.

**Guardianship:** The court process of granting authority to a guardian to handle the personal and/or financial affairs of an individual who is incapable of doing so for himself or herself.

**Health care agent form:** An advance medical directive by which you appoint another person, called your health care agent, to make your health care decisions for you if you are not capable of making or communicating them yourself. The document may include instructions about specific possible choices to be made. The health care agent form also may be referred to as a durable power of attorney for health care, health care power of attorney, health care proxy or health care surrogate document.

**Health care agent (proxy or surrogate):** The person legally authorized by a health care agent form, or other state laws, to make health care decisions on behalf of another person who has lost the capacity to do so.

**Hospice care:** A special kind of care for the terminally ill and their families that focuses on the enhancement of comfort and caring, either at home or in a facility.

**Informed consent:** The legal requirement for physicians to adequately inform their patients of treatment benefits, risks and options, so patients are in a position to make sound and well-informed decisions about their care.

**Intestate:** To die without a valid will. State law determines who receives the probate property of one who dies without a will, or one whose will has been revoked or annulled as irregular.

**Joint tenancy:** Ownership of real or personal property by two or more people with an element of survivorship. Typically, when one joint owner dies, the surviving joint tenants automatically own the decedent's interest. Joint-tenancy property does not pass according to the terms of a will.

**Life-sustaining procedures:** Medical procedures used to prevent death when it is likely to occur. Treatments may include mechanical breathing assistance, CPR, kidney dialysis and the administration of drugs, among others.

**Living will:** An advance medical directive that enables individuals to inform their physicians that if they should become terminally ill or injured and be unable to communicate, they would not want life-sustaining procedures used to extend their dying process, but that death should be allowed to come naturally. (This is not to be confused with a will, which is a legal statement directing the distribution of one's property and assets after death.)

**Marital deduction:** Generally, one spouse may transfer an unlimited amount of property to his or her spouse without incurring any federal gift or estate tax, by use of the marital deduction.

**Marital property:** A version of community property. Marital property laws can impact the distribution of assets under a will.

**Persistent vegetative state (PVS):** A state of "permanent unconsciousness" caused by severe damage to the major parts of the brain. Heartbeat and breathing may continue, but a state of consciousness is no longer possible.

**Personal representative:** A person appointed by a Testator or Testatrix to carry out the directions and requests in his or her will, and to transfer the property according to his or her wishes. See also *executor*.

**Probate:** This is technically the court procedure by which a will is proved to be valid or invalid. However, people generally use the term when talking about the whole legal process for collecting a decedent's assets, liquidating liabilities, paying taxes, and distributing property to heirs, carried out by the personal representative or executor under the supervision of the probate court.

**Tenants-in-common:** Ownership of real or personal property by two or more people, without an element of survivorship. A share in property owned by tenants-in-common can be transferred under one tenant's will.

**Terminal condition:** In most states, a physical condition that is incurable or irreversible in which death will occur within a short period of time (usually considered to be less than one year).

**Testator/testatrix:** One who makes or has made a will; one who dies leaving a will.

**Will:** A written instrument, executed with the formalities required by statutes, whereby a person makes a disposition of his or her property to take effect after death.

Print and cut out these cards. Complete the information, fold and keep them in your wallet.



**ADVANCE MEDICAL DIRECTIVE**

I have completed the following:

- Health care agent form.  
(The health care agent is named on the other side of this card.)
- Advance medical directive and/or living will.

Location of copies: \_\_\_\_\_

\_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Fold here →

**HEALTH CARE AGENT**  
 In the event I have lost the capacity to make my own health care decisions, I have appointed as my agent:  
 Name: \* \_\_\_\_\_  
 Phone: (Home) \_\_\_\_\_  
 \_\_\_\_\_  
 (Work) \_\_\_\_\_  
 \*Some states also require an alternate agent.



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Teaching Families About The Options Is Our Job!

Contact Us Today! We Can Help!

Executive LTC Services

718 998-8181

[dsteckler@executiveltcservices.com](mailto:dsteckler@executiveltcservices.com)

