



Estate Planning:

Protecting Homes and Empowering End-of-Life Dignity through Wills, Powers of Attorney, and Advance Healthcare Directives

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With many thanks to our host
Pepper Hamilton LLP
3000 Two Logan Square
Philadelphia, PA 19103

Table of Contents

Contact Information	1
Overview	2
Powers of Attorney	4
Terminology	4
The Fundamentals.....	5
Template	6
Advance Healthcare Directives	11
Terminology	11
The Fundamentals.....	11
Template	12
Wills	21
Terminology	21
The Fundamentals.....	22
Template	24
Estate Planning Questionnaire	31

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Overview

What is Life and Estate Planning?

- Estate planning is an arrangement for the use, conservation and transfer of property during lifetime and on death.
- Estate Planning can involve an attorney, an accountant, an insurance agent, a trust officer, and a financial planner.

The Importance of Planning Now

- Prepares for significant, life-altering events and prevents future from being left up to chance, and should be reviewed and updated after any major life-events.
- Provides for lifetime needs such as children's education, retirement income, replacement of income in the event of disability, and management of property in the event of incapacity.
- Provides for the disposition of assets on death in such a way that property is maximized and left in accordance with owner's wishes and the needs of owner's family. Without estate planning, property will pass in accordance with the laws of intestacy, which may or may not be consistent with intent of the owner.
- Designates a guardian for minor children in the event of death.
- Designates a person to take over affairs in the event of incapacity.
- Prevents problems with ownership of assets, especially homes. When homes are not transferred in an orderly way after the death of the legal

owner, it creates title issues that become harder to resolve as time goes by.

Practical Tips

- VIP has a notary on staff. Please call the office to schedule an appointment for you and your client when you are ready to execute the documents. If your client cannot travel, we can also help arrange for a volunteer travel notary.
- A notary will require the person executing the documents to present an unexpired government issued ID. If your client does not have a valid ID, please call your contact at VIP immediately.
- Counsel clients on what to do with the documents after they have been executed. Powers of attorney and advance directives should be copied and given to agents and medical providers. Wills should be kept in a safe place (but not a safety deposit box), perhaps giving copies to executors and/or beneficiaries or at least informing them of where to find the will.

Powers of Attorney

Terminology

- **Agent:** person designated to manage the principal's affairs by a power of attorney. The agent is a fiduciary and must always act in the principal's best interest.
- **Financial Powers of Attorney (FPOA):** documents that allows for a named agent to manage a principal's affairs when he or she can no longer do so independently.
- **General FPOAs:** allow the agent to manage all aspects of a person's finances, including the ability to sell the person's home, access bank accounts, manage income, and pay bills.
- **Durable FPOAs:** are the legal presumption. The effect of the document continues beyond the person's physical or mental incapacity.
- **Limited FPOAs:** tailored to grant specific powers to the agent, such as the ability to access a bank account or the limited power to sell real property.
- **Springing FPOAs:** go into effect upon a stated event. It is usually the principal's mental and/or physical disability as determined by a physician.
- **Principal:** person who signs the advance directive naming someone as his or her agent and who is, in our cases, the client.

The Fundamentals

- The agent is a fiduciary and must use the principal's money for the principal's benefit. Agents need to be careful not to co-mingle funds and keep detailed records and an accounting of all transactions.
- Joint or Co- Agents must act jointly and cannot act independently. Therefore, it is usually better to name an agent and an alternate or successor agent rather than co-agents.
- The FPOA must include a statutory notice signed by the principal and an acknowledgment signed by the agent(s).
- The acknowledgment does not have to be signed when the principal executes the document and does not have to be notarized. It simply needs to be signed before the agent uses the document. It is better for the acknowledgment to be signed in front of the principal to prevent fraud.

Template

NOTICE

THE PURPOSE OF THIS POWER OF ATTORNEY IS TO GIVE THE PERSON YOU DESIGNATE (YOUR "AGENT") BROAD POWERS TO HANDLE YOUR PROPERTY, WHICH MAY INCLUDE POWERS TO SELL OR OTHERWISE DISPOSE OF ANY REAL OR PERSONAL PROPERTY WITHOUT ADVANCE NOTICE TO YOU OR APPROVAL BY YOU.

THIS POWER OF ATTORNEY DOES NOT IMPOSE A DUTY ON YOUR AGENT TO EXERCISE GRANTED POWERS, BUT, WHEN POWERS ARE EXERCISED, YOUR AGENT MUST USE DUE CARE TO ACT FOR YOUR BENEFIT AND IN ACCORDANCE WITH THIS POWER OF ATTORNEY.

YOUR AGENT MAY EXERCISE THE POWERS GIVEN HERE THROUGHOUT YOUR LIFETIME, EVEN AFTER YOU BECOME INCAPACITATED, UNLESS YOU EXPRESSLY LIMIT THE DURATION OF THESE POWERS OR YOU REVOKE THESE POWERS OR A COURT ACTING ON YOUR BEHALF TERMINATES YOUR AGENT'S AUTHORITY.

YOUR AGENT MUST ACT IN ACCORDANCE WITH YOUR REASONABLE EXPECTATIONS TO THE EXTENT ACTUALLY KNOWN BY YOUR AGENT AND, OTHERWISE, IN YOUR BEST INTEREST, ACT IN GOOD FAITH AND ACT ONLY WITHIN THE SCOPE OF AUTHORITY GRANTED BY YOU IN THE POWER OF ATTORNEY.

THE LAW PERMITS YOU, IF YOU CHOOSE, TO GRANT BROAD AUTHORITY TO AN AGENT UNDER POWER OF ATTORNEY, INCLUDING THE ABILITY TO GIVE AWAY ALL OF YOUR PROPERTY WHILE YOU ARE ALIVE OR TO SUBSTANTIALLY CHANGE HOW YOUR PROPERTY IS DISTRIBUTED AT YOUR DEATH. BEFORE SIGNING THIS DOCUMENT, YOU SHOULD SEEK THE ADVICE OF AN ATTORNEY AT LAW TO MAKE SURE YOU UNDERSTAND IT.

A COURT CAN TAKE AWAY THE POWERS OF YOUR AGENT IF IT FINDS YOUR AGENT IS NOT ACTING PROPERLY.

THE POWERS AND DUTIES OF AN AGENT UNDER A POWER OF ATTORNEY ARE EXPLAINED MORE FULLY IN 20 PA.C.S. CH. 56.

IF THERE IS ANYTHING ABOUT THIS FORM THAT YOU DO NOT UNDERSTAND, YOU SHOULD ASK A LAWYER OF YOUR OWN CHOOSING TO EXPLAIN IT TO YOU.

I HAVE READ OR HAD EXPLAINED TO ME THIS NOTICE AND I UNDERSTAND ITS CONTENTS.

Dated: _____ Name: _____

FINANCIAL POWER OF ATTORNEY

I, _____ (Principal's Name), of _____ County, Pennsylvania, hereby make and appoint _____ (Agent's Name) to be my true and lawful Agent (hereinafter referred to as "Agent"). Upon the death, resignation, or inability of _____ (Agent's Name) to serve as my Agent, the vacancy shall be filled by _____ (Alternate's Name) who shall have the same powers, rights, and discretions as I have conferred herein upon my original Agent. The term "Agent" shall mean my original or my successor Agent, as the case may be.

I specifically direct that this power of attorney survive, and be effective, during the period of any future mental or physical incapacity of mine or lack of legal capacity that may occur.

I give my Agent a general grant of authority as defined by 20 Pa. C.S. § 5602(a) subject to the exclusion of any and all medical powers if I have valid health care power of attorney in effect.

My Agent may act for me with full power and authority to do and perform any and every act I might perform, including but not limited to the following:

1. To engage in banking and financial transactions; to draw checks against and make withdrawals from and deposits to my bank accounts; to open or close a bank account on my behalf; and to accept and endorse any notes, checks, or other monetary instruments.
2. To demand, receive, and give discharge to all money, securities, inheritances, or other assets, and to receive any pension, annuity distributions, or insurance hereafter due to me from any source.
3. To receive government benefits, including serving as my representative payee for any and all public benefits.
4. To pay any and all bills, accounts and debts that may be due by me at any time, or to compromise or settle any of them on any terms.
5. To engage in real property transactions, and to execute and deliver all deeds, agreements, receipts, releases, and satisfactions necessary or desirable in connection therewith.
6. To engage in tangible personal property transactions.
7. To manage my digital assets, including emails, email accounts, digital music, digital photographs, digital videos, gaming accounts, software licenses, social-network accounts, file-sharing accounts, financial accounts, domain registrations, Domain Name System (DNS) service accounts, blogs, listservs, web-hosting accounts, tax-preparation service accounts, online stores and auction sites, online accounts, and any similar digital asset that currently exists or may be developed as technology advances.
8. To claim an elective share of the estate of my deceased spouse.
9. To enter safe deposit boxes or to open a safe deposit box on my behalf.
10. To create a trust, or make additions to an existing trust, for my benefit.
11. To engage in stock, bond, and other security transactions.
12. To handle interests in estates and trusts.
13. To renounce fiduciary responsibilities I may hold.

14. To engage in insurance and annuity transactions, but not to alter any existing beneficiary designations.
15. To engage in retirement and long-term care planning transactions, but not to alter any existing beneficiary designations.
16. To commence and prosecute or defend and/or settle or compromise any claims, suits, actions, or proceedings at law or in equity, not instituted or to be instituted, which my said Agent may deem advisable and to appear and plead for me before courts and/or tribunals having jurisdiction thereof.
17. To appear and plead for me before any Federal, State, or municipal agency, authority, tribunal, or office, in any matter related to me; to examine all records and receive all communications agreements and agreements of settlement or compromise, receive all checks for refunds of money, and to do all things which with reference thereto.
18. To pursue tax matters, including executing income tax returns, waivers, and claims for refund, as I might personally do in all matters pertaining to Federal, State, and municipal tax returns.
19. To engage in commodity and option transactions.
20. To borrow money.
21. To pursue claims and litigation.
22. To operate a business or entity.
23. To provide for personal and family maintenance.

I give my Agent the specific grants of power:

1. Create, amend, revoke or terminate an inter vivos trust other than as permitted under section 5602(a)(2), (3) and (7) (relating to form of power of attorney).
2. Make a gift.
3. Create or change rights of survivorship.
4. Create or change a beneficiary designation.
5. Delegate authority granted under the power of attorney.
6. Waive the principal's right to be a beneficiary of a joint and survivor annuity, including a survivor benefit under a retirement plan.
7. Exercise fiduciary powers that the principal has authority to delegate.
8. Disclaim property, including a power of appointment.

I hereby ratify and confirm all that my said Agent shall do or cause to be done by virtue of these presents. I specifically direct that my Agent shall not be subject to any liability by reason of any good faith decisions, acts or failures to act, all of which shall be conclusive and binding upon me, my estate, and my heirs. Furthermore, I agree to indemnify my Agent, and hold my Agent harmless, from all claims that may be made against my Agent as a result of good faith service as my Agent, and I agree to reimburse my Agent in the amount of any damages, costs, and expenses that may be incurred as a result of any claim.

IN WITNESS WHEREOF, and intending to be legally bound, I _____
(Principal), hereunto subscribe my name and acknowledge this instrument to be my Financial
Power of Attorney, on this ___ day of _____, in the year 20__.

_____(SEAL)
PRINCIPAL'S SIGNATURE

The above mentioned person, on the above date in our presence, signed this and declared this instrument to be that person's power of attorney which now at that person's request, in that person's presence, and in the presence of each other, we sign as witnesses. Each of the undersigned is eighteen (18) years of age or older and is not (a) an individual who signed this power of attorney on behalf of the principal, (b) named as Agent in this power of attorney, or (c) the notary or other person authorized to take acknowledgments before whom this power of attorney was acknowledged.

WITNESS

WITNESS

COMMONWEALTH OF PENNSYLVANIA :
COUNTY OF PHILADELPHIA :

This record was acknowledged before me on _____, 20__ by

_____.

Notary Public

{SEAL}
My commission expires:

ACKNOWLEDGEMENT

I, _____ (AGENT'S NAME), have read the attached power of attorney and I am the person identified as the Agent for the principal. I hereby acknowledge that when I act as Agent:

I shall act in accordance with the principal's reasonable expectations to the extent actually known by me and, otherwise, in the principal's best interest, act in good faith and act only within the scope of authority granted to me by the principal in the power of attorney.

I shall exercise the powers for the benefit of the principal.

I shall keep the assets of the principal separate from my assets.

I shall exercise reasonable caution and prudence.

I shall keep a full and accurate record of all actions, receipts and disbursements on behalf of the principal.

Dated: _____

AGENT

Advance Healthcare Directives

Terminology

- **Advance Healthcare Directive:** the umbrella term for healthcare directives, including both healthcare powers of attorney and living wills.
- **Healthcare Power of Attorney (HCPOA):** documents that allows for a named agent to manage a principal's health-related affairs when he or she can no longer do so independently.
- **Living Will:** a statement of treatment preferences to be followed when a person has an end-stage/terminal medical condition or is permanently unconscious with no hope of recovery
- **Agent:** person designated to manage the principal's affairs when he or she can no longer do so independently. The agent is a fiduciary and must always act in the principal's best interest.
- **Principal:** person who signs the advance directive naming someone as his or her agent and who is, in our cases, the client.

The Fundamentals

- The agent makes healthcare decision when a person can no longer make decisions.
- The agent should be trustworthy and should be aware of the client's preferences, belief, and values.
- Decision may include: treatment decision, hiring and firing medical personnel, admission to a nursing facility.
- Much of the content of these documents are specified by statute, 20 Pa. C. S. § 5421, et seq., and then the client can choose which selections to make based on the options provided by statute.

Template

DURABLE HEALTHCARE POWER OF ATTORNEY AND HEALTHCARE TREATMENT INSTRUCTIONS (LIVING WILL) FOR XYZ

PART I INTRODUCTORY REMARKS ON HEALTHCARE DECISION MAKING

You have the right to decide the type of healthcare you want.

Should you become unable to understand, make or communicate decisions about medical care, your wishes for medical treatment are most likely to be followed if you express those wishes in advance by:

- (1) naming a healthcare agent to decide treatment for you; and
- (2) giving healthcare treatment instructions to your healthcare agent or healthcare provider.

NOTICE ABOUT ANATOMICAL DONATION

This document may also contain directions regarding whether you wish to donate an organ, tissue or eyes. Under Pennsylvania law, donating a part of the body for transplantation or research is a voluntary act. You do not have to donate an organ, tissue, eye or other part of the body. However, it is important that you make your wishes about anatomical donation known, just as it is important to make your choices about end-of-life care known.

Surgeons have made great strides in the field of organ donation and can now transplant hands, facial tissue and limbs. A hand, facial tissue and a limb are examples of what is known as a vascularized composite allograft. Under Pennsylvania law, explicit and specific consent to donate hands, facial tissue, limbs or other vascularized composite allografts must be given. You may use this document to make clear your wish to donate or not to donate hands, facial tissue or limbs.

Under Pennsylvania law, the organ donor designation on the driver's license authorizes the individual to donate what we traditionally think of as organs (heart, lung, liver, kidney) and tissue and does not authorize the individual to donate hands, facial tissue, limbs or other vascularized composite allografts.

Detailed information about anatomical donation, including the procedure used to recover organs, tissues and eyes, can be found on the Department of Transportation's website. Information about the donation of hands, facial tissue and limbs can also be found on the Department of Transportation's website.

You may wish to consult with your physician or your attorney to determine whether the procedure for making an anatomical donation is compatible with fulfilling your specific choices

for end-of-life care. In addition, you may want to consult with clergy regarding whether you want to donate an organ, a hand, facial tissue or limb or other part of the body. It is important to understand that donating a hand, limb or facial tissue may have an impact on funeral arrangements and that an open casket may not be possible.

An advance healthcare directive is a written set of instructions expressing your wishes for medical treatment. It may contain a healthcare power of attorney, where you name a person called a “healthcare agent” to decide treatment for you, and a living will, where you tell your healthcare agent and healthcare providers your choices regarding the initiation, continuation, withholding or withdrawal of life-sustaining treatment and other specific directions.

You may limit your healthcare agent’s involvement in deciding your medical treatment so that your healthcare agent will speak for you only when you are unable to speak for yourself or you may give your healthcare agent the power to speak for you immediately. This combined form gives your healthcare agent the power to speak for you only when you are unable to speak for yourself. A living will cannot be followed unless your attending physician determines that you lack the ability to understand, make or communicate healthcare decisions for yourself and you are either permanently unconscious or you have an end-stage medical condition, which is a condition that will result in death despite the introduction or continuation of medical treatment. You, and not your healthcare agent, remain responsible for the cost of your medical care.

If you do not write down your wishes about your healthcare in advance, and if later you become unable to understand, make or communicate these decisions, those wishes may not be honored because they may remain unknown to others.

A healthcare provider who refuses to honor your wishes about healthcare must tell you of its refusal and help to transfer you to a healthcare provider who will honor your wishes.

You should give a copy of your advance healthcare directive (a living will, healthcare power of attorney or a document containing both) to your healthcare agent, your physicians, family members and others whom you expect would likely attend to your needs if you become unable to understand, make or communicate decisions about medical care. If your healthcare wishes change, tell your physician and write a new advance healthcare directive to replace your old one. It is important in selecting a healthcare agent that you choose a person you trust who is likely to be available in a medical situation where you cannot make decisions for yourself. You should inform that person that you have appointed him or her as your healthcare agent and discuss your beliefs and values with him or her so that your healthcare agent will understand your healthcare objectives, including whether you want to limit or withhold life-sustaining measures in the event that you become permanently unconscious or have an end-stage medical condition. You should also tell your healthcare agent whether you want to donate organs, tissue, eyes or other parts of the body and whether you want to make a donation of your hands, facial tissue or limbs. It is important to understand that if you decide to donate a hand, limb or facial tissue it may impact funeral arrangements and that an open casket may not be possible.

You may wish to consult with knowledgeable, trusted individuals such as family members, your physician or clergy when considering an expression of your values and healthcare wishes. You are free to create your own advance healthcare directive to convey your wishes regarding

medical treatment. The following form is an example of an advance healthcare directive that combines a healthcare power of attorney with a living will.

If you are a woman and diagnosed as being pregnant at the time a healthcare decision would otherwise be made pursuant to this form, the laws of this Commonwealth prohibit implementation of that decision if it directs that life-sustaining treatment, including nutrition and hydration, be withheld or withdrawn from you, unless your attending physician and an obstetrician who have examined you certify in your medical record that the life-sustaining treatment:

- (1) will not maintain you in such a way as to permit the continuing development and live birth of the unborn child;
- (2) will be physically harmful to you; or
- (3) will cause pain to you that cannot be alleviated by medication.

A physician is not required to perform a pregnancy test on you unless the physician has reason to believe that you may be pregnant.

Pennsylvania law protects your healthcare agent and healthcare providers from any legal liability for following in good faith your wishes as expressed in the form or by your healthcare agent's direction. It does not otherwise change professional standards or excuse negligence in the way your wishes are carried out. If you have any questions about the law, consult an attorney for guidance.

PART II DURABLE HEALTHCARE POWER OF ATTORNEY

I, XYZ, of Philadelphia County, Pennsylvania, appoint the person named below to be my healthcare agent to make health and personal care decisions for me.

Effective immediately and continuously until my death or revocation by a writing signed by me or someone authorized to make healthcare treatment decisions for me, I authorize all healthcare providers or other covered entities to disclose to my healthcare agent, upon my agent's request, any information, oral or written, regarding my physical or mental health, including, but not limited to, medical and hospital records and what is otherwise private, privileged, protected or personal health information, such as health information as defined and described in the Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191, 110 Stat. 1936), the regulations promulgated thereunder and any other State or local laws and rules. Information disclosed by a healthcare provider or other covered entity may be redisclosed and may no longer be subject to the privacy rules provided by 45 C.F.R. Pt. 164.

The remainder of this document will take effect when and only when I lack the ability to understand, make or communicate a choice regarding a health or personal care decision as verified by my attending physician. My healthcare agent may not delegate the authority to make decisions.

MY HEALTHCARE AGENT HAS ALL OF THE FOLLOWING POWERS SUBJECT TO THE HEALTHCARE TREATMENT INSTRUCTIONS THAT FOLLOW IN PART III (CROSS OUT ANY POWERS YOU DO NOT WANT TO GIVE YOUR HEALTHCARE AGENT):

1. To authorize, withhold or withdraw medical care and surgical procedures.
2. To authorize, withhold or withdraw nutrition (food) or hydration (water) medically supplied by tube through my nose, stomach, intestines, arteries or veins.
3. To authorize my admission to or discharge from a medical, nursing, residential or similar facility and to make agreements for my care and health insurance for my care, including hospice and/or palliative care.
4. To have full access to my medical and hospital records and all information regarding my physical or mental health.
5. To hire and fire medical, social service and other support personnel responsible for my care.
6. To take any legal action necessary to do what I have directed.
7. To request that a physician responsible for my care issue a do-not-resuscitate (DNR) order, including an out-of-hospital DNR order, and sign any required documents and consents.
8. To authorize or refuse to authorize donation of what we traditionally think of as organs (for example, heart, lung, liver, kidney), tissue, eyes or other parts of the body.
9. To authorize or refuse to authorize donation of hands, facial tissue, limbs or other vascularized composite allografts.

APPOINTMENT OF HEALTHCARE AGENT

I appoint the following healthcare agent:

Healthcare Agent: _____
(Name and relationship)

Address: _____

Telephone Number: Home _____ Work _____

E-mail: _____

If my healthcare agent is not readily available or if my healthcare agent is my spouse and an action for divorce is filed by either of us after the date of this document, I appoint the person or persons named below in the order named. (It is helpful, but not required, to name alternative healthcare agents.)

First Alternative Healthcare Agent:

Name and Relationship: _____

Address: _____

Telephone Number: Home _____ Work _____

E-mail: _____

Second Alternative Healthcare Agent:

Name and Relationship: _____

Address: _____

Telephone Number: Home _____ Work _____

E-mail: _____

GUIDANCE FOR HEALTHCARE AGENT (OPTIONAL) GOALS

If I have an end-stage medical condition or other extreme irreversible medical condition, my goals in making medical decisions are as follows (insert your personal priorities such as comfort, care, preservation of mental function, etc.): _____

SEVERE BRAIN DAMAGE OR BRAIN DISEASE

If I should suffer from severe and irreversible brain damage or brain disease with no realistic hope of significant recovery, I would consider such a condition intolerable and the application of aggressive medical care to be burdensome. I therefore request that my healthcare agent respond to any intervening (other and separate) life-threatening conditions in the same manner as directed for an end-stage medical condition or state of permanent unconsciousness as I have indicated below.

Initials _____ I agree

Initials _____ I disagree

**PART III
HEALTHCARE TREATMENT INSTRUCTIONS IN THE EVENT
OF END-STAGE MEDICAL CONDITION
OR PERMANENT UNCONSCIOUSNESS
(LIVING WILL)**

The following healthcare treatment instructions exercise my right to make my own healthcare decisions. These instructions are intended to provide clear and convincing evidence of my wishes to be followed when I lack the capacity to understand, make or communicate my treatment decisions:

IF I HAVE AN END-STAGE MEDICAL CONDITION (WHICH WILL RESULT IN MY DEATH, DESPITE THE INTRODUCTION OR CONTINUATION OF MEDICAL TREATMENT) OR AM PERMANENTLY UNCONSCIOUS SUCH AS AN IRREVERSIBLE COMA OR AN IRREVERSIBLE VEGETATIVE STATE AND THERE IS NO REALISTIC HOPE OF SIGNIFICANT RECOVERY, ALL OF THE FOLLOWING APPLY (CROSS OUT ANY TREATMENT INSTRUCTIONS WITH WHICH YOU DO NOT AGREE):

1. I direct that I be given healthcare treatment to relieve pain or provide comfort even if such treatment might shorten my life, suppress my appetite or my breathing, or be habit forming.

2. I direct that all life prolonging procedures be withheld or withdrawn.

3. I specifically do not want any of the following as life prolonging procedures:

**heart-lung resuscitation (CPR)
mechanical ventilator (breathing machine)
dialysis (kidney machine)
surgery
chemotherapy
radiation treatment
antibiotics**

Please indicate whether you want nutrition (food) or hydration (water) medically supplied by a tube into your nose, stomach, intestine, arteries, or veins if you have an end-stage medical condition or are permanently unconscious and there is no realistic hope of significant recovery. (Initial only one statement.)

TUBE FEEDINGS

_____ I want tube feedings to be given.

OR

NO TUBE FEEDINGS

_____ I do not want tube feedings to be given.

4. If I have authorized donation of an organ (such as a heart, liver or lung) or a vascularized composite allograft in the next section of this document, I authorize the use of artificial support, including a ventilator, for a limited period of time after I am declared dead to facilitate the donation.

5. I specifically do not want to be on artificial support after I am declared dead.

HEALTHCARE AGENT’S USE OF INSTRUCTIONS (initial one)

_____ My healthcare agent **MUST** follow these instructions
_____ These instructions are only guidance. My healthcare agent shall have final say and may override any of my instructions. (Indicate any exceptions _____

_____.

If I did not appoint a healthcare agent, these instructions shall be followed.

LEGAL PROTECTION

Pennsylvania law protects my healthcare agent and healthcare providers from any legal liability for their good faith actions in following my wishes as expressed in this form or in complying with my healthcare agent’s direction. On behalf of myself, my executors and heirs, I further hold my healthcare agent and my healthcare providers harmless and indemnify them against any claim for their good faith actions in recognizing my healthcare agent's authority or in following my treatment instructions.

ORGAN DONATION (INITIAL ONE OPTION ONLY.)

_____ I consent to making an anatomical gift. This gift does not include hands, facial tissue, limbs or other vascularized composite allografts. I understand that if I want to donate a hand, facial tissue, limb or other vascularized composite allograft, there is another place in this document for me to do so. I also understand the hospital may provide artificial support, which may include a ventilator, after I am declared dead in order to facilitate donation. I consent to making a gift of the following parts of my body for transplantation or research. (Insert any limitations

you desire on donation of specific organs or tissues or uses for donation of organs and tissues.)

OR

_____ I consent to making a gift of my hands, facial tissue, limbs or other vascularized composite allografts. I also understand that I have the option of requesting reconstruction of my body in preparation for burial and that anonymity of identity may not be able to be protected in the case of donation of hands, facial tissue or limbs. I also understand that burial arrangements may be affected and that an open casket may not be possible. I also understand that the hospital may provide artificial support, which may include a ventilator, after I am declared dead in order to facilitate donation. (Insert any limitations you desire on donation of hands, facial tissue, limbs or other vascularized composite allografts and whether you request reconstructive surgery before burial.)

OR

_____ I do not consent to donating my organs, tissues or any other part of my body, including hands, facial tissue, limbs or other vascularized composite allografts. This provision serves as a refusal to donate any part of my body. This provision also serves as a revocation of any prior decision I have made to donate organs, tissues or other parts of my body, including hands, facial tissue, limbs or other vascularized composite allograft made in a prior document, including a driver's license, will, power of attorney, health care power of attorney or other document.

SIGNATURE

Having carefully read this document, I have signed it this _____ day of _____, 20____, revoking all previous healthcare powers of attorney and medical treatment instructions.

SIGNATURE

WITNESS: _____ **WITNESS:** _____

Two witnesses at least 18 years of age are required in Pennsylvania and should witness your signature in each other's presence. If is preferable if the witnesses are neither your heirs nor your creditors, nor employed by any of your healthcare providers.

NOTARIZATION (OPTIONAL)

(Notarization of this document is not required in Pennsylvania, but if the document is both witnessed and notarized, it is more likely to be honored in some other states.)

COMMONWEALTH OF PENNSYLVANIA :
COUNTY OF PHILADELPHIA :

This record was acknowledged before me on _____, 20__ by

_____.

Notary Public

{SEAL}

My commission expires:

Wills

Terminology

- **Administrator or Administratrix:** the person appointed by the court to handle the estate of someone who died without a will, or the executor named in the will has died, has been removed from the case, or does not desire to serve.
- **Beneficiary:** a person named in the Will, Trust, life insurance policy, retirement plan, etc. to receive all or a portion of another's property.
- **Bequest:** a gift of money or personal property made in a Will.
- **Decedent:** the person who has died
- **Devise:** a gift of real property made in a Will
- **Codicil:** is an amendment to a Will.
- **Executor or Executrix:** the person named in a Will who is responsible for settling the estate and carrying out the provisions of the Will.
- **Gross Estate:** everything which the Decedent owned or had an interest in at the time of his or her death, including life insurance, joint property, and certain transfers made during the Decedent's lifetime.
- **Guardian:** the one named to manage the personal affairs or property, or both of a minor child or incapacitated person.
- **Intestacy:** the distribution of property according to the state law when a person dies without a Will. *It does not mean that the Decedent's property automatically goes to the State if a person dies without a Will.*

- **Probate Property:** property owned by a person in his or her own name.
- **Non-Probate Property:** property passing to another by operation of law (e.g. joint property held with a right of survivorship) or by a beneficiary designation (e.g. life insurance and retirement plans).
- **Testator or Testatrix:** the person who has made a Will.
- **Trust:** a method of holding property where one person (a trustee) owns and manages property for the benefit of others (the beneficiaries). The rights of the beneficiaries are established by the terms of the trust. A trust can be established in a Will or during the lifetime of the person creating the trust.

The Fundamentals

- A will is the basic instrument in order for a person to transfer his or her property after death.
- Any person who is at least 18 years old and has a clear idea of his or her assets may make a Will.
- A Will must be signed by the person making the Will at the end of the document. Any writing appearing after the signature of the person making the Will is not valid.
- A Will can be handwritten in Pennsylvania so long as the entire Will is written and signed by the person making the Will.
- The person signing a Will must sign in the presence of two witnesses. A Will is “self-improving” if the Will is signed and witnessed in the presence of a notary.
- The Will accomplishes a variety of functions to facilitate the transfer of property from the decedent to the designated beneficiaries. It allows an

individual to control who gets what and how much, when and how and on what terms and conditions and for how long, and takes care of other details such as administration, fees and other matters like the appointment of a guardian for minor children.

- Although the decedent's wishes as expressed in a Will generally must be honored, a surviving spouse cannot be "cut out" of the Will in the absence of an agreement to the contrary, such as a premarital agreement. A surviving spouse is entitled to elect against the Will and receive a share of the decedent's assets. The share is determined by law. If a spouse elects to take against the Will, he or she must give up other assets, so the election must be made with care.
- If a person dies without a Will, or without an effective Will, this is known as intestacy. The person's property then will pass under the state laws. *See* 20 P.S. § 2101, et seq. State laws of intestacy generally provide that the decedent's property pass to the decedent's spouse and children. If there is no spouse and/or children, the property is distributed to more distant relatives, including parents and siblings. If the relatives as specified by law cannot be found, the property passes to the state.

Template

LAST WILL AND TESTAMENT OF XYZ

I, XYZ, residing at 123 Number Street, Philadelphia, PA, being of full age, sound mind and under no restraint declare this to be my Last Will and Testament and hereby revoke all prior wills and codicils.

FIRST: I direct that the expense of my last illness and funeral be paid out of my estate as soon as may be convenient after my death.

SECOND: I appoint my daughter, ABC, of 456 Tree Street, Philadelphia, Pennsylvania as Executrix of this my Will. I direct that my Executrix shall not be required to furnish security or to give bond for the faithful performance of her duties. In the event that she should predecease me or be unable to serve I designate as an alternative DEF of 789 Broad Street, Philadelphia, Pennsylvania.

THIRD: I direct that my Executrix shall engage an attorney of her own choosing as Attorney for my estate should she need legal advice.

FOURTH: I give, devise and bequeath to my husband GHZ my property at 123 Number Street, Philadelphia, Pennsylvania. If he shall predecease me, I give this property, in equal shares, to my daughter ABC of 456 Tree Street, Philadelphia, Pennsylvania and my daughter IJK of 123 Main Street, Anytown, Anystate. If either of my daughters should predecease me, I direct that her share goes to the survivor of the two of them. (in the alternative you can put to the predeceased child's heirs and assigns forever.)

FIFTH: I give, devise and bequeath the following specific bequests:

1. I give, devise and bequeath to my husband GHZ my car, a 2012 Mazda.
2. I give devise and bequeath my engagement ring to my granddaughter Elle.

OR

I give all tangible personal property owned by me at death and all insurance policies on such property to those individuals who survive me by thirty days who are designated on a list or memorandum signed by me which refers to this Will or is found with a copy thereof, the items listed besides their names; provided that no such list or memorandum shall be valid unless it is received by my Executor within sixty days of my Executor's qualification. [Addendum attached at end of document to be included if this format is selected.]

SIXTH: The share of any beneficiary under the age of 21 or who is disabled at the time of my death shall be held in separate trust by my daughter, ABC, as Trustee, for the following uses and purposes:

- (1) My Trustee shall apply the net income and principal as follows:
 - (a) So much of the net income and principal as my Trustee, in my Trustee's absolute discretion, deems appropriate for the beneficiary's health, support, maintenance, and education shall be paid to her guardian or applied directly for the benefit of said beneficiary.
 - (b) My trustee shall take any income or other resources available to the beneficiary from sources outside the Trust into consideration in exercising her discretionary authority with respect to the payment of income or principal to such beneficiary. My Trustee may accept as final and conclusive the written statement of the beneficiary or her guardian as to other available income or resources. My Trustee's decision to make any payment, whether from income or principal, shall be conclusive as to all persons.
 - (c) Any undistributed income shall be added to and made a part of the principal of said Trust.
 - (d) In the event the beneficiary dies prior to the termination of this Trust, this gift shall be distributed to my surviving beneficiary as set forth in Paragraph [Eighth].
- (2) This Trust shall terminate and my Trustee shall distribute the balance of the Trust estate to the beneficiary when the beneficiary attains the age of 21 years [if minor].
- (3) The Trust may be terminated prior to the stated termination date if my Trustee, in her absolute discretion, determines that there are insufficient assets remaining in the trust to warrant continued administration.

SEVENTH [Sample Disinheritance clauses]: I have intentionally made no provision in this Will for MNO and this is not occasioned by any oversight or mistake, but because I do not wish her to receive any share of my estate.

OR

No provision is made in this Will, not out of any lack of love or affection for MNO, but because I do not wish her to receive any share of my estate and believe she is already well provided for.

EIGHTH: I give, devise and bequeath the rest and residue of all my property, whether real, personal, or mixed to my daughter ABC, of 456 Tree Street, Philadelphia, Pennsylvania, my daughter IJK of 123 Main Street, Anytown, Anystate, and my granddaughter PQR of Philadelphia, Pennsylvania with equal shares to all. If any of my named beneficiaries

COMMONWEALTH OF PENNSYLVANIA :
 : ss.
COUNTY OF PHILADELPHIA :

I, XYZ, whose name is signed to the attached or foregoing instrument, having been duly qualified according to law, do hereby acknowledge that I signed and executed this instrument as my Last Will; that I signed it willingly, and that I signed it as my free and voluntary act for the purposes therein expressed.

XYZ

Sworn to and subscribed
before me this _____ day
of _____, 20__.

Notary Public

ACKNOWLEDGEMENT

COMMONWEALTH OF PENNSYLVANIA :
 : ss.
COUNTY OF PHILADELPHIA :

We, _____ and _____, the witnesses whose names are signed to the attached or foregoing instrument, being duly qualified according to law, do depose and say that we were present and saw XYZ sign and execute the instrument as her LAST WILL; and that she executed it as her free and voluntary act for the purposes therein expressed; that each of us in the hearing and sight of the Testatrix signed the Will as witnesses; and that to the best of our knowledge the Testatrix was at that time 18 or more years of age, of sound mind and under no constraint or undue influence.

_____ residing at _____

_____ residing at _____

Sworn to and subscribed
before me this _____ day
of _____, 20__.

Notary Public

**INSTRUCTIONS FOR DISPOSITION OF TANGIBLE
PERSONAL PROPERTY BY MEMORANDUM**

Under Pennsylvania law, you may use a memorandum to dispose of tangible personal property. If you wish to use a memorandum, you should know and follow these instructions:

1. To ensure that your memorandum is effective, your Will should permit you to leave a memorandum and the memorandum should refer to your Will.
2. The memorandum should not include items already specifically mentioned in your Will.
3. The memorandum should not be used to give money, notes, real estate, deeds, securities, other documents of title, or property used in a trade or business.
4. You should date and sign the memorandum. If you list items on more than one page, date and sign each page. Your signature need not be witnessed.
5. You should clearly describe each item so that it can be easily identified and not be confused with another similar item.
6. Each recipient should be identified by his or her proper name and relationship to you, if any. If possible, the address of the recipient should be added if he or she is not closely related to you, so that proper identification is ensured.
7. You may destroy the entire memorandum. Changes must be made by dating and signing a new memorandum. Do not simply mark an existing memorandum.
8. If you execute a new Will, you should sign a new memorandum unless the old memorandum is specifically identified by date and incorporated in your new Will.
9. You should keep the memorandum in a place where it is likely to be found, such as a desk, file, or fireproof box, but preferably wherever your Will is kept. You should explain the location and purpose of the memorandum to your family or others likely to survive you.

Estate Planning Questionnaire

The information below will help your volunteer attorney to figure out what your estate planning documents should look like.

All of the information that you give to your attorney will be private and confidential. It is important that you give all of the information below to your attorney, so that s/he can create the best possible estate planning documents for you.

Client's Name: _____ Date: _____

ABOUT YOUR AND YOUR FAMILY

Are you legally married?

If yes:

Name of spouse:

Do you have a pre-nuptial or post-nuptial agreement?

Were you previously married?

If yes, and you divorced your spouse:

Name of former spouse:

Date of divorce:

Did you and your former spouse have a written agreement about who would get which property?

If yes, and your spouse passed away while you were married:

Name of former spouse:

Date of death:

Have you ever been married and lived during that marriage in California, Texas, New Mexico, Nevada, Louisiana, Washington, Idaho, Wisconsin or Arizona (as these are community-owned property states)?

If you have any children or grandchildren, or any dependents living with you, please list them here:

Name	Relationship	Is this Person Your Dependent?	Date of Birth	Date of Death

ABOUT YOUR ASSETS (THINGS YOU OWN)

Do you own the home that you live in?

If yes:

Address:

Name(s) on Deed:

Approximate Value (if known):

Approximate Balance Owed on Mortgage:

Do you know who you want to leave this home to?

Do you own any other properties (houses or lots)?

If yes:

Address:

Name(s) on Deed:

Approximate Value (if known):

Approximate Balance Owed on Mortgage:

Do you know who you want to leave this property to?

Do you own any “personal property”, such as:

Vehicles?

Jewelry?

Household furniture and furnishings?

Items of special value (art, antiques, collections)?

Do you know who you want to leave this property to?

Do you have any bank accounts in your name?

If yes:

Name of Bank?

Is this account joint?

Approximate amount:

Do you know who you want to leave this money to?

Do you have any life insurance?

If yes:

Name of Company:

Person insured (usually, you):

Beneficiary (person who will get paid):

Amount:

Do you have disability insurance?

If yes, amount:

Do you own/have an interest in any of these other things?

Stocks and Bonds

If so, how are they held – in a safe deposit box, broker’s account, or bank custody account?

Do you know who you want to leave this property to?

Retirement plan (IRA, 401(k), pension)

If so:

Type:

Amount:

Beneficiary:

Business Interests

If so:

Name of Business:

Approximate value:

Are you a director or officer?

Do you know who you want to leave this interest to?

Interest in an estate or trust?

If so, please explain:

Potential future inheritances?

If so, please explain:

Do you have a safe deposit box?

If so:

Name and Branch of Bank:

In whose name is the safe deposit box rented?

OTHER IMPORTANT INFORMATION FOR YOUR ESTATE PLANNING DOCUMENTS

Do you already have a:

Will?

Living Will (aka Advance Health Care Directive)?

Financial Power of Attorney?

Health Care Power of Attorney and/or Proxy?

If so, do you want to change any of these documents?

If so, why?

If you have any dependents who are minor children:

Do you have an idea of who you want to be their guardian (to take care of them)?

Would you want the same person (their guardian) to be in charge of your children's finances (income and/or property)?

Do you have an idea of who you want to be in charge of your estate (your property and your debts) after you pass away (meaning, the executor of your estate)?

Do you have an idea of who you want to get your property after you pass away (the beneficiaries of your estate)?

Do you have any instructions or wishes for your burial or cremation?

Do you know who you want to be your agent for a financial Power of Attorney?
And alternate agent?

Do you know who you want to be your agent for a health care Power of Attorney?
And alternate agent?