

## 10.2: WILLS AND ESTATES

### TERMS ASSOCIATED WITH WILLS AND ESTATES:

**Administrator** – When an individual dies intestate (without a will), the Surrogate's Court appoints an administrator to protect the assets of the estate and to make sure they are distributed in accordance with law. An administrator receives Letters of Administration from the court, which are proof that this person has authority to act on behalf of the estate.

**Beneficiary** – A person who receives money or property under a will, trust or insurance policy.

**Decedent/Deceased** – The person who died.

**Dying Intestate** – Dying without a will.

**Estate** – An estate is all the personal and real property owned by a person when he/she dies.

**Estate Taxes** – Taxes owed to the federal government or the State of New York by a person's estate when they die.

**Executor/Executrix** – A person (executor is a male, executrix is a female) who is appointed (named) in a will to run the estate after the testator/testatrix dies. It is the role of the executor to protect the assets of the estate and to ensure that assets are distributed in the manner set forth in the will. An executor or executrix receives Letters Testamentary from the Surrogate's Court as proof that he or she has authority to act on behalf of and for the estate.

**Guardian** – A person appointed by a court to make decisions regarding the care for a minor or persons unable to make their own decisions.

**Health Care Proxy** – A formal legal document that a person signs designating another individual to make critical medical decisions on the person's behalf if the person is unable to do so for them self. A Health Care Proxy is usually signed in conjunction with a Living Will.

**Holographic Will** – A will made by a person entirely in his/her handwriting.

**Intestate** – When a person dies without a will.

**Life Insurance** – Life insurance is a contract between an individual and a life insurance company where the company collects a yearly premium in exchange for the promise to pay a stated sum upon the death of the individual.

**Living Will** – A formal legal document made by a person prior to a life-threatening disease or injury, outlining the medical treatment a person wants if the person cannot express such themselves. A Living Will is usually signed in conjunction with a Health Care Proxy.

**Nuncupative Will** – A will is nuncupative when it is unwritten, and the making thereof by the testator and its provisions are clearly established by at least two witnesses.

**Power of Attorney** – A formal legal document that a person signs giving another person to sign certain legal documents on his/her behalf.

**Probate** – Probate means to formally bring the will before the Surrogate's Court. Once all the procedures have been completed, all the proper forms signed, all estate taxes paid, and the assets distributed according to the wishes of the testator/testatrix, the will is said to have "gone through probate."

**Publishing a Will** – Publishing a will means that the testator/testatrix declares the will to be his/her Last Will and Testament in front of the witnesses.

**Surrogate's Court** – The court in New York State where wills are probated.

**Testamentary Trust** – A trust created by will that comes into existence upon the death of the decedent and the probate of the will.

**Testator** – A man who makes a will.

**Testatrix** – A woman who makes a will.

**Will** – A formal legal document that passes property from one person to another upon the death of the first person.

**Witnesses** – In New York, at least two witnesses must be present when the testator/testatrix makes or executes (signs) the will.

**WILLS:** Wills require very specific legal formalities to be valid.

- A will must be in writing (New York Estates, Powers and Trusts Law [EPTL] Section 3-2.2). New York does not recognize oral wills.
- The person making the will, must be of sound mind, and be 18 years of age or older. (EPTL Section 3-1.1)
- There must be two witnesses (EPTL Section 3-2.1 [4]) that are unrelated to the decedent present when the will is being signed.
- New York does not recognize nuncupative or holographic wills. The only exception is if the nuncupative or holographic will is made by a soldier or sailor in time of war (EPTL Section 3-2.2).

**WHY DO I NEED A WILL?** The main reason you need a will is so you can decide who gets your property upon your death. If you have a spouse and children, this can be very important as the intestate statute may not distribute your property as you may wish. If you have a child, you can name a guardian in your will that you want to care for your child in the event your spouse cannot do so. You can also create a trust to care for the financial needs of your child upon your death.

**WHAT HAPPENS IF I DIE WITHOUT A WILL?** Contrary to popular misconceptions, the government rarely takes your property if you die without a will. EPTL Section 4-1.1 sets out how a person's property will be distributed if they die without a will or intestate. NYS will only take an intestates estate if there is no will and no living relatives. Note, intestacy does not extend beyond first cousins once removed.

To determine who is a first cousin once removed, remember that first cousins share a grandparent, second cousins share a great-grandparent, third cousins share a great-great-grandparent. The term "removed" refers to the number of generations separating cousins. Your parent's first cousin is your first cousin once removed. The child of your first cousin is also your first cousin once removed: your grandparent is that child's great-grandparent.

The following chart explains intestate distribution pursuant to EPTL Section 4-1.1 up to nieces and nephews.

Status of Person Upon Death	Recipient of Money or Property
Single, parents alive	All to parents
Married, parents alive	All to surviving spouse
Married with children, parents alive	Wife gets \$50,000 plus one-half of the balance of the estate, remainder to children in equal shares
Single, with children	All to children in equal shares
Single, no surviving spouse, parents, children, grandchildren, brothers, or sisters	All to nieces and nephews in equal shares

**CAN I DISINHERIT MY CHILDREN IN MY WILL?** Yes. There is nothing under the law that prohibits a person from doing so. There are legitimate reasons for doing so besides estrangement. People often distribute funds to one child while they are alive for college or the buying of a home and consider that that child's inheritance. Or perhaps other children have greater needs than some due to age, abilities, or education.

**IF I MAKE A WILL, CAN I COMPLETELY DISINHERIT MY SPOUSE?** No. New York law protects the surviving spouse from such. If a testator leaves a will leaving nothing or little to a surviving spouse, the law provides an option to this spouse. The surviving spouse has the choice to "elect against the will" and thereby claim \$50,000.00, or one-third of the estate whichever amount is greater pursuant to EPTL Section 5.1.

**COMMON TERMS OF A SIMPLE WILL:** The following are common terms found in most simple NYS wills.

1. The first paragraph of a will usually declares that this is the Last Will and Testament of the maker (testator), and states that he is of sound mind and understands what he is doing. It also generally states the name and place of residence of the person making the will.

2. Most wills recite that the debts and funeral expenses will be paid by the estate.
3. Often a simple will may set forth a specific bequest, such as a wedding ring, a sum of money, or a particular item of furniture to a specific loved one.
4. Most simple wills give the remainder of the entire estate to the surviving spouse with a provision that if the other spouse does not in fact survive the testator (testatrix), or if both die as a result of a common accident or illness, the estate shall be given to some other alternate beneficiary which is usually their children.
5. A will almost always names an executor/executrix and an alternate in the event that the named executor/executrix is unable to serve, or has predeceased the testator.
6. If the testator has minor children, the will usually names a guardian and an alternate guardian to care for the infant children in the event the other parent has predeceased the testator or dies at the same time.
7. If the testator has minor children, the will usually has provisions for a Testamentary Trust to care for their children's financial needs. This duration of the trust is set by the testator. The age of the child that the trust will be terminated with the remaining trust funds distributed to the child is determined by the testator. The trustee or person who administers the trust is named by the testator. It may or may not be the same person as the guardian.

The following is an example of a simple will of a married couple with two minor children.

## LAST WILL AND TESTAMENT

### OF

### MARY C. SMITH

I, **Mary C. Smith**, presently residing in the City of Rochester, County of Monroe, State of New York, being of sound mind and memory, do make, publish, and declare this to be my Last Will and Testament, in the manner following, that is to say:

FIRST: I direct that all legally enforceable debts and my funeral expenses be paid, and I hereby revoke all former Wills and Codicils heretofore made by me.

SECOND: I bequeath my wedding ring to my daughter **Sarah Smith**. All the rest, residue, and remainder of my estate both real and personal, including but not limited to all household goods, personal effects, jewelry, clothing, and any other items of personal property, of whatsoever nature and wheresoever situate, I give, devise, and bequeath, absolutely to my husband, **John T. Smith**.

THIRD: If my husband predeceases me, I hereby give, devise and bequeath my estate to my children **Sarah Smith** and **Anthony Smith** in equal shares, per stirpes, and I hereby give, devise, and bequeath each such share to my Trustee, hereinafter named, on separate and distinct trusts, for the benefit of each of them for the following uses and purposes:

A. To hold, manage, invest, and reinvest in said property; to collect and receive the income there from; to accumulate the said income; to invest and reinvest the said accumulated income; and to pay so much of said income and accumulated income as each Trustee shall deem necessary for the support, maintenance, welfare, education, and comfort of each of them who are under the age of thirty (30) years.

B. I hereby authorize my Trustee to deliver to the beneficiaries of these trusts, any such articles of tangible personal property as he/she deems appropriate or retain for later delivery of such article, as in his sole discretion he deems advisable, or sell any and all personal property for the benefit of the trusts. All the determinations made by the Trustee regarding this tangible personal property shall be final and not subject to judicial review. As each beneficiary shall attain the age of thirty (30) years, the Trustee shall thereupon pay over and distribute to each beneficiary the then principal and any accumulated income of the trust. The separate trust for each beneficiary shall then terminate. Should any them who is a beneficiary of one of these trusts, die before attaining the age of thirty (30) years, the interest of such beneficiary and the income or principal of the trust shall be paid over and distributed to the surviving issue of each beneficiary, per stirpes, or if my beneficiary shall die without issue surviving, I direct that their such share be paid and poured over to either the trust for the benefit of my surviving beneficiaries established pursuant to this Will or directly to my surviving beneficiaries if he/she is of an appropriate age to receive this bequest free of trust.

FOURTH: I nominate, constitute and appoint my sister **Michele Jones** as Trustee of this, my Last Will and Testament for the above-named trusts. In the event that my Trustee shall predecease me or for any reason be disabled, unwilling, or unable to act either at the time of my death or during the administration of my estate and/or said trusts, in any such events, I nominate, constitute,

and appoint my brother **Charles Jones** as Alternate Trustee of this, my Last Will and Testament, with the full power herein stated. In addition to and without limitation upon the general powers and authority of my Trustee, I hereby authorize my Trustee:

A. To sell mortgage, lease, or hold for investment or for the use of my beneficiaries, if determined to be in the best interest of my beneficiaries, any real property forming part of any trust, in such manner and upon such terms as he/she may deem proper.

B. To pay either from principal or income of the trust any taxes, upkeep, costs of repair or other expenses that may be necessary on, or to maintain real property retained in the trust for the use and benefit of my beneficiaries.

C. To retain any investment forming part of my estate so long as he/she deems it proper and to invest and reinvest the funds of any trust in such common or preferred stocks, bonds, common trust funds, or other personal or real property as he/she may select, without restriction to the investments prescribed by law for the trust funds.

D. To set off and distribute in kind to the respective beneficiaries any and all of the securities or investment forming part of any trust at its termination, at the duly appraised value thereof and in such proportions and amounts as to the respective securities and as to the respective beneficiaries as the Trustee may determine, in his/her discretion, to be equitable and for the best interests of the trust.

E. To adequately and properly provide for the health, wealth, maintenance, education, support, or comfort of my beneficiaries, and to draw from the trust any funds that he/she might need for these purposes.

FIFTH: In the event my husband **John T. Smith**, predeceases me, I hereby nominate, constitute and appoint my sister, **Emma Gardner**, as Guardian of the person and property of my children who shall be minors at the time of my death. In the event my sister **Emma Gardner**, predeceases me, or dies while my children are minors, or chooses not to act as Guardian of my children, I hereby nominate, constitute and appoint my sister-in-law, **Kathryn Williams** as Alternative Guardian over the person and property of my children who shall be minors at the time of my death.

SIXTH: I hereby nominate, constitute, and appoint my husband **John T. Smith**, Executor/Executrix of this, my Last Will and Testament. I direct that no fiduciary named herein need give bond or surety. I further give my Executor/Executrix the authority to lease, sell, mortgage, convey, or retain any and all personal property which I may own at the time of my death in such manner and at such time as he/she shall deem in the best interest of my estate. My Executor/Executrix is hereby given the authority to decide which items of personal property he/she will distribute to the Trustee for the benefit of each trust hereunder. The decision of my Executor/Executrix as to which trust will receive which items of tangible personal property will be final and not subject to judicial review. In the event that my Executor/Executrix shall predecease me or for any reason be disabled, unwilling, or unable to act either at the time of my death or during the administration of my estate, in any such events, I nominate, constitute and appoint my sister **Michele Jones** as Alternate Executor/Executrix of this my Last Will and Testament, with the full power herein stated.

SEVENTH: I authorize and empower my fiduciary, as he/she shall deem appropriate, in his/her discretion, to make, or refrain from making, elections permitted under any applicable income, estate or inheritance tax law without regard to the effect of any such election on the interest of any beneficiary of my estate. No beneficiary under this Will shall be entitled to a compensating adjustment, even though the exercise of these powers affects the size or composition of my estate or of any disposition under this Will.

EIGHTH: I direct that all estate, inheritance, legacy, succession, or other death taxes and duties of any nature that may be assessed or imposed by the United States of America, or by the State of New York, or by any other jurisdiction, be paid from my residuary estate. All such taxes with respect to property not passing under the provisions of this Will but upon which property such taxes are assessed or imposed, including all such taxes assessed or imposed upon the proceeds of any and all policies of insurance upon my life are also to be paid out of my residuary estate.

LASTLY: If pursuant to any provision of this Will all or any part of my estate shall vest in absolute ownership in a minor or minors (or if at the termination of any trust created by this Will or a portion of principal of such trust shall vest in absolute ownership in a minor or minors), I authorize my Executor/Executrix (or Trustee) to hold the same without bond and in his/her absolute discretion and without authorization by any court:

A. To defer, in whole or part, payment or distribution of any or all property to which such minor may be entitled, holding the whole or the undistributed portion thereof as a separate share for such minor with all the powers and authority conferred by the provisions of this will including, without limitation, the power to retain, invest, and reinvest, principal without being limited to investments authorized by law for trust funds.

B. To pay, distribute, or apply the whole or any part of any net income or principal at any time held for any such minor, to or for the support, education, and general welfare of such minor, either directly or by making payment or distribution thereof to the guardian or other legal representative, wherever appointed, of such minor or to the person with whom such minor shall reside (without obligation to see to the proper application thereof) or to such minor personally, or by distributing the whole or part of such share to a Custodian under the New York Uniform Transfers to Minors Act, and to pay or distribute any balance thereof to such minor when such minor attains his or her majority or, in case such minor shall die before distribution of all the property held under this Article, to the Executor/Executrix or Administrator of the estate of such minor.

The receipt of the person or persons to whom any such payment or distribution is so made shall be a sufficient discharge therefore even though my Executor/Executrix may be such person.

My Executor/Executrix (and the Trustee) shall not be required to render and file annual accountings with respect to property so held under this Article of my Will.

My Executor/Executrix (and the Trustee) shall be entitled to receive compensation with respect to any property held for any minor pursuant to this Article at the same rate and in the manner payable to testamentary Trustees under the State of New York.

IN WITNESS WHEREOF, I have hereunto subscribed my name on \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
L.S. Mary C. Smith

WE, whose names are hereto subscribed, Do Certify, that on \_\_\_\_\_, 20\_\_\_\_, the Testator, **MARY C. SMITH**, subscribed her name to this instrument in our presence and in the presence of each of us, and at the same time in our presence and hearing, declared the same to be her Last Will and Testament and requested us and each of us, to sign our names thereto as witnesses to the execution thereof, which we hereby do in the presence of the Testator and each of us, on the day of the date of the said Will, and write opposite our names our respective places of residence.

\_\_\_\_\_ residing at \_\_\_\_\_

\_\_\_\_\_ residing at \_\_\_\_\_

## WILL SUBSTITUTE :

Even if a will exists, not all the property a person owns will be probated. Some assets pass outside of a will as a matter of law. They are often called will substitutes. The most common example is jointly held property. Some will substitutes we will examine are:

- Gifts
- Jointly held property
- Trusts
- Life Insurance policies

**Gifts:** As part of estate planning, some people make gifts to people of their choice instead of waiting until the die to do so. Each year, a person may give away some of their money tax free. In 2018, the federal limit is \$15,000 to any individual from any individual. Assets you give away during your lifetime will not be a part of your estate after you die.

**Jointly Held Real Property:** When real property is held either as a “tenancy by the entirety” or as “joint tenants,” the surviving owner takes title of the real property upon the death of the other owner. This transfer of the property interest takes place by operation of law. It takes place automatically, regardless of whether the other owner died with or without a will. It also does not matter if the deceased owner states otherwise in the will by declaring their property interest will pass to someone other than the surviving owner. Jointly held real estate passes outside of the will.

**Jointly Held Bank Accounts:** When two individuals are named on a bank account as joint owners, the bank account passes automatically to the surviving owner upon the death of the deceased. The transfer happens as a matter of law much in the same way as jointly held real property.

**Trusts:** A trust is a formal legal document by which a person’s assets are managed by a trustee for the benefit of another person called a beneficiary. Trusts can either be created by will called a testamentary trust, or during the lifetime of the grantor called an intervivos trust.

**Life Insurance:** Life insurance is a contract between an individual and a life insurance company whereby the company agrees to pay a stated sum upon the death of the individual. The person who buys the contract designates an individual or individuals who will receive the money upon their death. These individuals are known as beneficiaries. The two basic forms of life insurance are called term and whole life. Life insurance is often part of an employment benefits package with the amount of insurance to be paid upon one's death based on the salary of the employee.

Life insurance is often purchased as a safety net for families in the event the primary income provider dies unexpectedly. It is also used by partners in a business to help the remaining living partners financially in the event of the unexpected death of a partner would put the business in financial jeopardy.

**Term Insurance:** This type of life insurance protects an individual over a stated term. If purchased while young and in good health, this can be very inexpensive life insurance. As a person's age increases or their health deteriorates, the risk of death increases and so do the insurance premiums. Term insurance is pure insurance and provides no investment value. An insurance company will only pay out the money contracted for through the death of the insured during the term period.

**Whole Life Insurance:** This type of life insurance provides protection to an insured's beneficiaries in the same manner as term life insurance. However, it includes an element of investment. A portion of the premiums paid are set aside as an investment, much like a savings account, accumulating cash value. Cash value builds up over time. Upon termination of the life insurance portion of the policy, the cash value still remains and is payable to the insured or the insureds beneficiaries. Whole life insurance is more expensive and usually has higher premiums than term life insurance.

## WHAT IS A POWER OF ATTORNEY ?

A Power of Attorney is a formal legal document that gives one person the permission to act on another's behalf. While the word attorney is part of the name of this legal document, it has nothing to do with being an attorney or requiring that the person with the power to sign documents on behalf of another has to be an attorney. A person with a power of attorney can buy a car, sell a house, sign checks, pay bills, and sign just about any legal document for another person. However, they cannot write a Will for the other person.

A Power of Attorney expires and terminates automatically upon the death of the principal. If a Power of Attorney is used to convey an interest in real property, it must be recorded in the County Clerk's Office. A Power of Attorney can be terminated at any time by the principal. The principal signing a Power of Attorney must be of sound mind and mentally capable so that they understand what they are signing.

New York State has what are called a "durable power of attorney" that remains valid even in the event of the subsequent disability of the principal who signed the Power of Attorney. This means that the person designated to sign on behalf of the principle, can still act even though the principle is incapacitated (NY General Obligations Law Section 5-1501).

## WHAT IS A GUARDIAN ?

A guardian is a person appointed by a court to make decisions regarding the care for a minor or persons unable to make their own decisions. Guardians may be appointed by different courts depending on the circumstances. A guardian may be necessary for a minor child whose parents are not capable of taking care of them. A guardian may be appointed for an elderly person who cannot take care of themselves. The powers of a guardian will depend on the circumstances and needs of the person they are to care for.

## WHAT IS A LIVING WILL ?

A living will is a formal legal document made by a person prior to his life-threatening disease or injury, outlining what medical treatment they want if they cannot express their own wishes. It usually includes whether they should be allowed to die without the intervention of life-sustaining procedures and equipment. When there is no living will, family of the injured person will have to demonstrate to a court that the person left "clear and convincing" evidence that they would not want to be kept alive by extraordinary measures.

## WHAT IS A HEALTH CARE PROXY?

A health care proxy designates another individual to make critical medical and life support decisions on your behalf if you were to become unable to make such decisions.

A living will states a person's intent and wishes regarding their medical treatment whereas a health care proxy provides for a "designated decision maker" to do so for a person when they are not capable of doing so themselves. These documents are usually



signed together and in conjunction with each other. Both a living will and a health care proxy documents do not need to be signed with the assistance of an attorney.

## SENIOR LIVING ARRANGEMENTS

With an ever-increasing elderly population that is living longer, the options of living arrangements for the seniors have grown. The following are three types of senior living facilities. The definitions are very general and not definitive. There are many variations on a theme with these types of facilities.

**Independent Living Facility:** Residents live in independent apartments but can eat one or two meals a day in a dining center. They typically have their laundry and apartment cleaning done for them. There may be a pool or recreation center, and common areas such as libraries and game rooms available. The apartments are designed for seniors, with wide doorways and grab bars in the showers. Many residents still drive their own autos and come and go as they please. 24-hour security and safety monitoring may be available. Generally, nursing care or nurses aids are **not** provided.

**Assisted Living Facilities:** In many ways, these facilities are like the independent living facilities except an on-site nurse is most likely available to assist with medications and monitor health care conditions. A staff doctor may visit the facility on a periodic basis. While some members may still drive, it is more likely that residents will go shopping and attend events in a facility sponsored bus. Generally, a resident in assisted living has to be able to dress, feed, bathe, and toilet themselves. They usually have to be able get themselves to the dining room for meals.

**Nursing Home:** These facilities are for the very old, the sick, and the frail. Usually the resident is there because they can no longer independently perform certain daily living activities such as bathing, toileting, dressing, and feeding. All meals are provided. There are 24-hour nurses available on the premises, with staff doctors on call. Many residents have been recently hospitalized but are sent to a nursing home when they no longer require the higher level of medical diagnosis and treatment provided in a hospital setting. The cost of nursing home care is very expensive and can cost as much as \$10,000 and more per month.

**Medicaid:** Most elderly people who enter a nursing home, even those who saved during their lives, will eventually run out of money. When a person runs out of money, Medicaid coverage kicks in and the costs of the nursing home is paid by the government and ultimately the taxpayers.

The Medicaid rules are very complicated. Although there are many exceptions (your home, your car, some of the community spouse's assets, etc.), a single person does not become eligible for Medicaid until he/she has spent all of his assets except \$14,400. In addition, an individual may set up a special prepaid funeral account to cover burial expenses and still qualify. The nursing home resident must then pay each month to the nursing home his/her social security benefits and any other sources of income, except for \$50/month to be used for personal care items.

Some people try to give away money to their children or other relatives in an attempt to protect their family assets. However, the government can look back at these gifts and transfers and require that they be returned. The look back rule as of 2018 is five years from the date of the Medicaid application.

The following document is an example of a Living Will and Health Care Proxy.

### NEW YORK LIVING WILL AND HEALTH CARE PROXY

I, \_\_\_\_\_, being of sound mind, make this statement as a directive to be followed if I become permanently unable to participate in decisions regarding my Medical care. These instructions reflect my firm and settled commitment to decline medical treatment under the circumstances indicated below.

I direct my attending physician and other medical personnel to withhold or withdraw treatment that serves only to prolong the process of my dying, if I should be in an incurable or irreversible mental or physical condition with no reasonable expectation of recovery.

These instructions apply if I am: a) in a terminal condition; b) permanently unconscious; or c) if I am conscious but have irreversible brain damage and will never regain the ability to make decisions and express my wishes.

I direct that treatment be limited to measures to keep me comfortable and to relieve pain, including any pain that might occur by withholding or withdrawing treatment. While I understand that I am not legally required to be specific about future treatments, if I am in the condition(s) described above, I feel especially strong about the following forms of treatment.

**I do not want cardiac resuscitation.**

**I do not want mechanical respiration.**

**I do not want tube feeding.**

**I do not want antibiotics.**

**I do want maximum pain relief.**

**Other instructions (insert personal instructions):**

**I HEREBY APPOINT**

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

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

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

as my health care proxy to make all health care decisions for me in conformity with the guidelines I have expressed in this document. I direct my proxy to make health care decisions in accordance with my wishes and instructions as stated above or as otherwise known to him or her. I also direct my agent to abide by any limitations on his or her authority as stated above or as otherwise known to him or her.

In the event my health care proxy is unable, unwilling, or unavailable to serve as such, then **I appoint as my substitute health care proxy** (with the same powers that I have heretofore enumerated).

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

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

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

I understand that unless I revoke it, this living will and health care proxy will remain in effect indefinitely.

These directions express my legal right to refuse treatment, under the laws of New York. Unless I have revoked this instrument or otherwise clearly and explicitly indicated that I have changed my mind, it is my unequivocal intent that my instructions as set forth in this document be faithfully carried out.

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

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

Dated: \_\_\_\_\_

**Statement By Witnesses (Must Be 18 or Older)**

I declare that the person who signed this document is personally known to me and appears to be of sound mind and acting of his or her own free will. He or she signed (or asked another to sign for him or her) this document in my presence.

Witness: \_\_\_\_\_

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

Dated: \_\_\_\_\_

Wittness: \_\_\_\_\_

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

Dated: \_\_\_\_\_

**KEEP THIS SIGNED ORIGINAL WITH YOUR PERSONAL PAPERS AT HOME. GIVE COPIES OF THE SIGNED ORIGINAL TO YOUR DOCTOR, FAMILY, LAWYER AND OTHERS WHO MIGHT BE INVOLVED IN YOUR CARE.**

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