



AIDS Law Project of Pennsylvania  
a nonprofit, public-interest law firm

***Your Life, Your Decisions:***  
*Wills, Living Wills, Powers of Attorney  
and Standby Guardianships*

2015 Edition

This edition of Your Life, Your Decisions was researched and written by AIDS Law Project of Pennsylvania attorneys Jacob M. Eden, Yolanda French Lollis and Ronda B. Goldfein. The authors thank Amy Steerman, Esq. for her fine editorial assistance and Rebecca Richman and James Rosica Esq. for their work on the previous editions.

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## **Part I**

### **Wills, Powers of Attorney, and Living Wills**

Wills, living wills and powers of attorney are important legal documents that we all need regardless of our health or wealth. A will allows you to ensure that your possessions will be distributed according to your wishes at the time of your death. A financial power of attorney allows you to name someone to make financial decisions for you. A living will and medical power of attorney allow you to state your wishes regarding the health care you want if you become too sick to speak for yourself.

We know it is hard to think about these things, but many people find they are relieved once they make these decisions. Documenting your wishes in writing is the best way to ensure that they will be understood and respected when the time comes.

The following Q&As should answer many of your questions.

#### **Wills**

##### **Q: Should I have a will?**

A: Yes, especially if you have real estate, bank accounts, or other assets you want distributed to family members or friends. It is also a good idea if you think your family and friends will fight over your property, or if you are afraid your wishes will not be followed.

A will says who gets your assets after you die. Without a will, state law decides which relative gets your property. In Pennsylvania, an unmarried partner is not legally entitled to get anything of yours after you die, unless the person is named in your will. If you have no relatives and no will, your property may go to the government.

You can also name somebody in your will to take care of your minor children (those under the age of 18) after you die. The person you name will not have the legal authority to raise your children unless a court approves of that person after you die. Other legal options, such as standby guardianship, should also be considered. [Note: Standby guardianship is discussed in Part II.]

##### **Q: Should I have a will even if I don't own much property?**

A: It is up to you. If you want to be sure of who gets your property (that is, everything you own), you probably should have a will. This is true even if your property has little monetary value. A will also helps your friends and family know what you want done with all your things.

##### **Q: Do I need a lawyer to write my will?**

A: Not in Pennsylvania. You can even handwrite your own will if you're of sound mind and 18 or older. If you handwrite your own will, you should: (1) name an executor, (2) name which persons or organizations you want to get your property, (3) sign it at the very end, and (4) although not necessary, it's best to have the will notarized and witnessed by two people over 18.

Nevertheless, the best way to ensure your wishes are fulfilled is to seek a lawyer's help.

**Q: What is an executor?**

A: An executor is the person who follows the instructions in your will. An executor gives your property to the people you name and sees that your debts are paid. That person also can be named in the will to receive your money or other property or belongings.

**Q: What sorts of things do I need to decide when I make my will?**

A: Simply put, you must decide who gets what. You can leave all of your belongings to one person, an organization, or you can divvy it up among many. Someone does not have to be related to you to be named in your will. If you are married when you die, however, your legal spouse may have an automatic right to a portion of your property, even if you don't name him or her.

**Q: Should I name a person to get my life insurance money?**

A: If you have a life insurance policy, the money goes directly to the person you named, known as your "beneficiary." If no one is named in your policy, and it becomes part of your estate, the money may be subject to taxes and claims by creditors. Check your paperwork and make sure you have named a beneficiary. If you can't find your policy, call your insurance agent or the insurance company.

**Q: What if my name has been changed formally or informally?**

A: Precision and accuracy are valuable in legal documents. At minimum, both your preferred name and legal name should be used if you have not legally changed your name. If you have changed your name, you may want to use your legal name and former name.

**Q: Can I change my will?**

A: Yes, but you have to do it in a specific way. It is best to consult a lawyer, but if you have to change the will yourself, you should either write a new will or write a "codicil." A codicil is just a writing saying which parts of the will you want to change. It should be signed and dated in front of two witnesses.

**Q: Can I cancel or revoke my will?**

A: Yes, you can cancel, or "revoke" a will, but you must do it in a specific way. It is best to consult a lawyer for help with this. If you cancel the will yourself, you must do so in one of the following ways: (1) Draft a new will stating that all previous wills are revoked; (2) Write down that you revoke your will, then sign and date the writing (preferably in front of 2 witnesses); (3) Destroy the original and all copies with the intent to cancel the will.

**Durable Financial Power of Attorney**

**Q: What is a durable financial power of attorney?**

A: A durable financial power of attorney is a document that gives a person you choose power over your financial affairs, such as paying bills, signing checks, spending money and doing your banking for you. This granting of power is "durable," meaning it lasts even if you become unable to make decisions.

If you have a bank account, check with your bank to see if it has a special power of attorney form. If you fill out the bank's form, it will make it much easier for the person you

name as power of attorney to access your bank account.

You may name any adult as your financial power of attorney, also known as your agent. The agent does not have to be related to you. Just make sure you fully trust the person you name.

This is different from a health care power of attorney, which allows someone else to make health care decisions for you. [This is explained below.]

**Q: When does the financial power of attorney take effect?**

A: The person you name in the power of attorney is called your agent. The agent cannot start acting on your behalf until he or she signs the acknowledgment at the end of the power of attorney. Until the agent signs, the power of attorney is not in effect, even though you already signed it and it is notarized and witnessed.

**Q: If I have a power of attorney, do I still need a will?**

A: Yes. A power of attorney is different from a will. The person you name in the power of attorney can act for you only while you are alive. If you want someone to act for you after you die, you must name an executor in your will.

**Advance Health Care Directive:  
the Living Will and the Durable Health Care Power of Attorney**

**Q: What is an advance health care directive?**

A: An advance health care directive is a legal document stating your wishes for medical treatment. The document allows you to choose the kinds of medical care you want – or do not want – if you cannot speak for yourself. You can also choose someone who will speak for you if you are unable to do so.

For the directive to be valid, you must be of sound mind, age 18 or older, and sign and date the written directive. Two people age 18 or older must witness your signature.

When presented with an advance health care directive, health care providers are required to place a copy of it in your medical record.

There are two types of advance health care directives: living wills and health care powers of attorney.

**Q: What happens if I don't have an advance health care directive?**

A: If you don't have a living will or a health care power of attorney, you can appoint someone to make medical decisions for you by writing or personally telling your doctor. That person is called a "health care representative." This process is less formal than the appointment of a health care agent in an advance health care directive.

If you do not name anyone specifically as health care representative, the law states who will be your health care representative and who will be allowed to make medical decisions for you. The law generally gives priority in the following order:

- (i) a legal spouse, unless an action for divorce is pending, and your adult children who are not the children of your spouse;
- (ii) an adult child;
- (iii) a parent;
- (iv) an adult brother or sister;
- (v) an adult grandchild;

(vi) a close friend, meaning an adult who knows your preferences and values, including your religious and moral beliefs to assess how you would make health care decisions for yourself.

### **Living Will**

**Q: What is a living will?**

A: In a living will, you state your wishes about artificial life-support and other end-of-life care. Your instructions in a living will take effect only if you become incompetent and you have an “end-stage medical condition” or are permanently unconscious.

You may choose someone to make decisions for you; that person is your “health care representative.” You may also name alternates if the first person can’t be reached or no longer will act for you.

**Q: Can I cancel my living will?**

A: Yes, you can cancel, or “revoke,” a living will at any time and in any manner. All you have to do is tell your doctor or another health care provider that you are revoking your living will. You can also have someone else tell them if they witnessed firsthand what you said.

**Q: What does incompetent mean?**

A: Under the law, incompetent means unable to understand or make informed decisions about your care.

**Q: What does “end-stage medical condition” mean?**

A: An end-stage medical condition is “an incurable and irreversible medical condition in an advanced state caused by injury, disease or physical illness that will result in death despite the introduction or continuation of medical treatment.”

In other words, your illness cannot be reversed and you will die of the condition despite treatment. Under the law a doctor does not need to get a second opinion to diagnose you with an end-stage medical condition.

### **Durable Health Care Power of Attorney**

**Q: What is a health care power of attorney?**

A: In a health care power of attorney, you name a family member or other trusted person to make medical decisions for you. This person is known as your “health care agent.”

**Q: Can I “revoke” my health care power of attorney?**

A: Yes. You must do it in writing or personally tell your doctor, other health care provider, or your health care agent.

**Q: What’s the difference between a living will and a health care power of attorney?**

A: The living will is limited to end-of-life decision-making; the health care power of attorney is not. Also, the living will becomes effective when there is a “triggering event” that is an end-stage medical condition; a health care power of attorney, however, is effective as soon as it’s signed.

## **Part II. Standby Guardianship**

The Pennsylvania Standby Guardianship Law allows terminally ill parents of children under 18 to plan for their children's futures. *The term parent here includes biological parents, adoptive parents, custodial grandparents, or anyone else with legal custody of children.* Standby guardianship allows the naming of a guardian to take custody of a child or children when a parent becomes ill or dies.

Note: Standby guardianship is intended for making arrangements in the event of illness or death. If you need other custody or family recognition legal services, talk to a family law lawyer.

### **Q: I am too sick to care for my children right now. I would like them to live with a friend or a relative. Can I do this?**

A: If you think that you will get better soon, you can simply arrange with the friend or relative to take care of the children without having to go to court. This person may be able to get cash assistance from the government while he or she is taking care of your children.

You can name the friend or relative as the children's standby guardian. You do this by signing papers designating the standby guardian to have guardianship over your children, but by doing so, you *do not lose any parental rights* to your children. You will have *shared custody* of your children with the standby guardian.

Note, however, *standby guardianship is intended for people who are the sole parent of a minor child.* You can name a standby guardian if you are your child's only parent, if your child's other parent is deceased; if his/her parental rights have been terminated; if her/his whereabouts are unknown; or he/she is unwilling or unable to carry out day-to-day childcare decisions concerning the child or if he or she consents.

The law requires that the standby guardian provide you with frequent and continuing contact with the children and involve you in decision making for the children to the greatest extent possible. If you later change your mind, you can cancel the standby guardianship by doing so in writing.

The standby guardianship becomes effective upon a future "triggering event" that you specify – for example, the triggering event could be your admission to the hospital for inpatient treatment, or a period of disability when you cannot care for your children. If you are discharged from the hospital or recover, the standby guardianship ends. Within 60 days of the triggering event, the standby guardian must file with the court for approval to continue as the standby guardian.

### **Q: I am worried about what will happen to my children, so I have arranged with my sister to take care of them if I die. Do I need to sign some sort of legal paper to arrange this?**

A: You can name your sister as standby guardian, and specify your death as a triggering event for the guardianship. If that happens, your sister would then have physical and legal custody of your children. She would need to go to the court within 60 days to get approval of the court to continue as the children's guardian.

Also, you can name different standby guardians for different triggering events. For example, you could name a family friend as standby guardian if you're hospitalized, but you could name your sister as standby guardian if you die.

**Q: Can I name someone in my will to take care of my children after I die?**

A: Yes, you may name someone in your will. You can also name a standby guardian for your children in the event of your death. Either way, the person you name will not have legal authority to raise your children unless a court approves that person.

The standby guardian will have immediate physical and legal custody before court approval, but the guardian will have to go to court within 60 days to get approval to continue in that role.

Your standby guardian will need additional legal help to enforce your wishes, although courts favor the named standby guardian, particularly in situations where the sole surviving parent names the standby guardian or the other parent's parental rights have been terminated.

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The following pages are templates only and should be modified as necessary to reflect specific situations.



**Last Will and Testament  
of**

\_\_\_\_\_  
I, \_\_\_\_\_, of \_\_\_\_\_, Pennsylvania, being of sound and disposing mind, memory and understanding, do hereby make, publish and declare the following for my last Will and Testament, hereby revoking and making void all Wills by me at any time heretofore made.

**FIRST:** I direct that all estate, legacy, inheritance, succession, transfer, and other death taxes, and all interest and penalties with respect to those taxes, payable to any federal, state or foreign taxing authority, and imposed by reason of my death with respect to property passing under this will shall be paid out my residuary estate, as an expense of administration, without apportionment. All such taxes imposed with respect to property required to be included in my gross estate for purposes of such taxes and passing outside of this will shall be apportioned among the persons and entities benefited in the proportion that the taxable value of the property or interest bears to the total taxable value of the property and interests received by all persons benefited (the values as finally determined in the respective tax proceedings being the values to be used for the apportionment of the respective taxes) and my executor shall seek reimbursement for such taxes from the persons benefited to the fullest extent permitted by any applicable law.

**SECOND:** If \_\_\_\_\_ survives me by thirty (30) days, I give, devise and bequeath to \_\_\_\_\_ my entire estate, whether real, personal, or mixed of every kind, nature and description whatsoever and wherever situated, including money in checking and savings accounts, and all articles of personal and household use including automobiles which I may now own or hereafter acquire, or have the right to dispose of at the time of my death, as by the power of appointment or otherwise.

**THIRD:** If \_\_\_\_\_ should predecease me or fail to survive me by thirty (30) days, then his/her gift under Item \_\_\_\_\_ above shall fail and I give, devise and bequeath my entire estate to \_\_\_\_\_, if he/she survives me.

**FOURTH:** I appoint \_\_\_\_\_ as Executor of my Will. If \_\_\_\_\_ shall fail to act or continue to act as such, I appoint \_\_\_\_\_ in his or her place with the same powers and duties. No bond shall be required.

**FIFTH:** I direct that \_\_\_\_\_ be fully and solely in charge of the disposition of my remains pursuant to 20 PA C.S.A. §305. No bond shall be required.

**SIXTH:** The omission in this my last Will and Testament of any provision for any biological relative or any other person is not due to oversight or neglect, but is based on my considered desire to benefit only the beneficiaries designated herein.

**SEVENTH:** In addition to powers granted by law, my Executor shall have the following powers, exercisable at his or her discretion from time to time, without court approval, with respect to both principal and income, and such powers shall continue until distribution is actually made under the terms hereof:

- A. Sale and Lease - To sell at public or private sale, to exchange, to lease for any period of time, and to give options for the sale or lease of, any real or personal property.
- B. Borrowing - To borrow or to lend money, to mortgage or to pledge any real or personal property.
- C. Distribution - To make distributions, either in cash or in kind, or partly in either, and to make non pro rata distributions.
- D. Advisors - To appoint, retain, remove and change investment and accounting advisors.
- E. Disclaimer - To disclaim, in whole or in part, any interest which would otherwise have passed, by whatever means, to me.

**EIGHTH:** No interest in income or principal while undistributed and in the possession of my Executor or Executrix hereunder shall be assignable by any beneficiary or available to anyone having a claim against a beneficiary.

I herewith affix my signature to this Will consisting of \_\_\_ pages on this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ at \_\_\_\_\_, Pennsylvania, in the presence of the following witnesses, who witnessed and subscribed this Will at my request and in my presence.

\_\_\_\_\_  
**TESTATOR**

**ATTESTATION CLAUSE**

On the date above written, \_\_\_\_\_, well known to us declared to us and in our presence that this instrument consisting of 4 pages, is his last Will and Testament, and at \_\_\_\_\_'s request we now sign this Will as witnesses in each other's presence. Further that \_\_\_\_\_ appeared to us to be of sound mind and lawful age and under no undue influence.

\_\_\_\_\_  
**Witness Signature**

\_\_\_\_\_  
**Witness Signature**

\_\_\_\_\_  
**Printed Name**

\_\_\_\_\_  
**Printed Name**

\_\_\_\_\_  
**Number and Street**

\_\_\_\_\_  
**Number and Street**

\_\_\_\_\_  
**City, State and Zip Code**

\_\_\_\_\_  
**City, State and Zip Code**

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STATE OF PENNSYLVANIA :  
COUNTY OF \_\_\_\_\_ :

We, \_\_\_\_\_, \_\_\_\_\_, and \_\_\_\_\_, the Testator and the witnesses, respectively, whose names are signed to the foregoing Will, being first duly sworn, do hereby declare to the undersigned authority that the Testator signed and executed the foregoing instrument as his or her last Will in the presence and hearing of the witnesses and that he or she executed it as his or her free and voluntary act for the purposes therein expressed, and that each of the witnesses, in the presence and hearing of the Testator and each other, signed the Will as witness and that to the best of their knowledge, the Testator was at that time eighteen years of age or older, of sound mind and under no restraint or undue influence.

\_\_\_\_\_  
Testator

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Witness

Subscribed, sworn to and acknowledged before me by \_\_\_\_\_, the Testator, and subscribed and sworn to before me by \_\_\_\_\_ and \_\_\_\_\_, witnesses, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
County/State

**Prepared by:**  
[Attorney Name]  
[Attorney Address]

Letter of Instruction for Disposition of Remains  
of

\_\_\_\_\_

By this letter, written this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, I \_\_\_\_\_ of \_\_\_\_\_, Pennsylvania hereby specify the procedures which I want followed for my final services and disposition of my remains pursuant to 20 PA. C.S. §305:

**First**, I direct that \_\_\_\_\_ of \_\_\_\_\_ be fully and solely in charge of the disposition of my remains. No bond shall be required. I also desire that any supplemental arrangements not specified herein should be made by him or her;

**And**

**Second**, I direct that \_\_\_\_\_ dispose of my remains by making sure that:

\_\_\_\_\_  
Declarant

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

**Living Will**

**of**

\_\_\_\_\_

In accordance with the Pennsylvania Living Will Act, (20 Pa.C.S. §5441 *et seq.*), I, \_\_\_\_\_, exercise my right to make my own health care 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 at any time I should have an end-stage medical condition which will result in my death despite the introduction or continuation of medical treatment or I am permanently unconscious such as in an irreversible coma or in an irreversible vegetative state and there is no realistic hope of significant recovery, I then direct that life sustaining treatments be administered according to my wishes as follows:

1. I direct that I be given health care 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  do /  do not want heart-lung resuscitation.
3. I  do /  do not want mechanical ventilator.
4. I  do /  do not want tube feeding or any other artificial or invasive form of nutrition (food) or hydration (water) medically supplied by a tube in my nose stomach, intestines, arteries or veins.
5. I  do /  do not want any form of surgery or invasive diagnostic tests.
6. I  do /  do not want antibiotics.
7. I  do /  do not want blood or blood products.
8. I  do /  do not want kidney dialysis.
9. I  do /  do not want chemotherapy.
10. I  do /  do not want radiation treatment.

**HIPAA Release Authority.** Effective immediately and continuously until my death or revocation by a writing signed by me, I authorize all health care providers or other

covered entities to disclose to my Health Care 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, including confidential information concerning: Chemical Dependency Diagnosis/Treatment, Mental Health Diagnosis/Treatment including Psychiatric and Psychological Evaluation and HIV/AIDS Diagnosis/Treatment. HIV is the virus that causes or indicates AIDS or HIV infection. HIV-related information is information which concerns whether a person has been tested for HIV or has AIDS or an HIV-related illness, or could reasonably identify the person as having one or more of these conditions. Information disclosed by a health care 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.

I appoint the following Health Care Agent to make treatment decisions on my behalf including decisions to initiate, continue or withdraw life-sustaining treatment and fluids and nutrition. My Health Care Agent shall give priority to my treatment instructions set forth above and may also consider as necessary and appropriate evidence of my values, preferences and goals. If this Living Will in conjunction with other evidence of my wishes is not specific to my medical condition and treatment alternatives, then my Health Care Agent shall exercise reasonable judgment to affect my wishes, giving full weight to the terms and spirit of this Living Will and other evidence of my wishes.

**Name, address and phone number(s) for Health Care Agent:**

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If my Health Care Agent is not readily available or if my Health Care 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 named below:

**Name, address and phone number(s) of Alternative Health Care Agent:**

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I understand that I may revoke this Living Will at any time and in any manner without regard to my mental or physical condition. This revocation shall be effective when I communicate it to my attending physician, other health care provider, or a witness to the revocation.

Pennsylvania law protects my Health Care Agent and health care providers from any legal liability for their good faith actions in following my wishes as expressed in this form or in complying with my Health Care Agent's direction.

Having carefully read this Living Will, consisting of three (3) pages, I have signed it, in the presence of the witnesses whose names appear below, on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ in \_\_\_\_\_, Pennsylvania.

\_\_\_\_\_  
**Signature**

\_\_\_\_\_, in my presence, signed this declaration. I believe the declarant to be of sound mind. I am at least 18 years of age and am not related to the declarant by blood or marriage, have no claim against any portion of the estate of the declarant according to the laws of intestate, nor am I directly financially responsible for the declarant's medical care. I am not the declarant's attending physician, an employee of the attending physician, or an employee of the health care facility in which the declarant is or may be a patient.

\_\_\_\_\_  
**Witness Signature**

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

\_\_\_\_\_  
**Witness Signature**

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



## **DURABLE HEALTH CARE POWER OF ATTORNEY**

1. In accordance with the Pennsylvania Health Care Agents and Representatives Act, I, \_\_\_\_\_ of \_\_\_\_\_, Pennsylvania, appoint the person named below to be my Health Care Agent to make health and personal care decisions for me.

**Name, Address and Telephone Number(s) of Health Care Agent:**

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2. **HIPAA Release Authority.** Effective immediately and continuously until my death or revocation by a writing signed by me, I authorize all health care providers or other covered entities to disclose to my Health Care 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, including information concerning: Chemical Dependency Diagnosis/Treatment, Mental Health Diagnosis/Treatment including Psychiatric and Psychological Evaluation and HIV/AIDS Diagnosis/Treatment. HIV is the virus that causes or indicates AIDS or HIV infection. HIV-related information is information which concerns whether a person has been tested for HIV or has AIDS or an HIV-related illness, or could reasonably identify the person as having one or more of these conditions. Information disclosed by a health care 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.

3. This power of attorney is specifically limited to health care decisions. My Health Care Agent is appointed to exercise any health care power or take any action in regard to the care of my health as I could do myself, which my agent, in my agent's sole discretion believes to be in my best interest, including but not limited to the following powers and actions:

- (a) to take charge of my person in case of illness or disability of any kind;
- (b) to authorize my admission to or discharge from a medical, nursing, residential or similar facility and to make agreements for my care, including hospice and/or palliative care;
- (c) to consent to surgical or other medical procedures;

- (d) to remove and place me in such institutions or places as my agent may deem best for my personal care, comfort, benefit and safety after giving consideration to any wishes I have previously expressed on this subject;
- (e) to be given full rights to visit me during my period of in-patient care as though my agent were a member of my immediate family, and to be given the full right to receive me into my agent's care and custody upon discharge;
- (f) to be provided access to my confidential medical records and information pertaining to my medical condition;
- (g) to be given full right to consult with my attending physician or other health care providers;
- (h) to execute on my behalf any waiver or release from liability required by a hospital or physician where necessary to implement the health care decisions that my agent is authorized by this power of attorney to make;
- (i) to receive into my agent's possession property and effects which may be recovered from my person by any hospital, police agency, or any other person at the time of my illness, disability, or death.
- (j) to authorize, withhold or withdraw medical care and surgical procedures.
- (k) to hire and fire medical, social service and other support personnel responsible for my care.
- (l) to take any legal action necessary to do what I have directed.

4. If, after execution of this power of attorney, should any incompetency proceedings be commenced regarding my person, I hereby nominate my Health Care Agent as the guardian of my person, and I direct that the appointment by any court of any guardian shall be in accordance with this nomination.

5. If my Health Care Agent is not readily available or if my Health Care 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:

**Name, address and phone number(s) of Alternative Health Care Agent**

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6. I understand that I may revoke this health care power of attorney in a writing signed by me and two witnesses or by personally communicating the revocation to my attending physician, health care provider or health care agent.

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**IN WITNESS WHEREOF**, I \_\_\_\_\_, have signed my name to this Health Care Power of Attorney, consisting of three (3) pages on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ in \_\_\_\_\_, Pennsylvania.

\_\_\_\_\_  
**Printed Name**

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Witness Signature**

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

\_\_\_\_\_  
**Witness Signature**

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

## **Pennsylvania Durable Financial Power of Attorney**

### **NOTICE IN ACCORDANCE WITH 20 PA C.S. 5601**

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 POWER, 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 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 THE POWER OF ATTORNEY, INCLUDING THE ABILITY TO GIVE AWAY ALL 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.CS. CHAPTER 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.

\_\_\_\_\_  
Principal

\_\_\_\_\_  
Date

I, \_\_\_\_\_ of \_\_\_\_\_ Pennsylvania, appoint \_\_\_\_\_ of \_\_\_\_\_ as my agent to exercise any power or take any action as fully and as completely as I could do myself, which my agent in my agent's sole discretion believes to be in my best interest, with respect to the following initialed powers and actions:

**If I have granted a power, my initials are on the line in front of it. If I have withheld a power, an X is on the line in front of it.**

- \_\_\_\_\_ • Make limited gifts
- \_\_\_\_\_ • Create a trust for my benefit
- \_\_\_\_\_ • Make additions to an existing trust for my benefit
- \_\_\_\_\_ • Claim an elective share of the estate of my deceased spouse
- \_\_\_\_\_ • Renounce fiduciary positions
- \_\_\_\_\_ • Withdraw and receive the income or corpus of a trust
- \_\_\_\_\_ • Engage in real property transactions
- \_\_\_\_\_ • Engage in tangible personal property transactions
- \_\_\_\_\_ • Engage in stock, bond, and other securities transactions
- \_\_\_\_\_ • Engage in commodity and option transactions
- \_\_\_\_\_ • Engage in banking and financial institutions transactions
- \_\_\_\_\_ • Borrow Money
- \_\_\_\_\_ • Enter safe deposit boxes.
- \_\_\_\_\_ • Engage in insurance and annuity transactions

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- \_\_\_\_\_ • Engage in retirement plan transactions
- \_\_\_\_\_ • Handle interests in estate, trust and other beneficiary transactions
- \_\_\_\_\_ • Engage in business operating transactions
- \_\_\_\_\_ • Pursue claims and litigation
- \_\_\_\_\_ • Receive Benefits from Social Security, Medicare, Medicaid, or other government programs, or civil or military service.
- \_\_\_\_\_ • Pursue tax matters
- \_\_\_\_\_ • Make an anatomical gift of all or part of my body

**Note: The powers below allow your Agent to make significant alterations to your estate plan.**

- \_\_\_\_\_ • Create, amend, revoke or terminate an *inter vivos* trust
- \_\_\_\_\_ • Make a Gift
- \_\_\_\_\_ • Create or change rights of survivorship
- \_\_\_\_\_ • Create or change a beneficiary designation
- \_\_\_\_\_ • Delegate authority granted under the Power of Attorney
- \_\_\_\_\_ • Waive the principal's right to be a beneficiary of a joint and survivor benefit under a retirement plan
- \_\_\_\_\_ • Exercise fiduciary powers that the principal has authority to delegate
- \_\_\_\_\_ • Disclaim property, including a power of appointment

Should I ever be adjudicated incapacitated by a court, I nominate my Agent to be Guardian of my estate.

I hereby ratify and confirm all that my agent shall do by virtue of this power of attorney.

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*IN WITNESS WHEREOF*, and intending to be legally bound, I have signed my name  
this \_\_\_\_ day of \_\_\_\_\_, 2015.

\_\_\_\_\_  
**Principal Signature**

\_\_\_\_\_  
**Witness Signature**

\_\_\_\_\_  
**Witness Signature**

\_\_\_\_\_  
**Number and Street**

\_\_\_\_\_  
**Number and Street**

\_\_\_\_\_  
**City, State and Zip Code**

\_\_\_\_\_  
**City, State and Zip Code**

Sworn or affirmed to and subscribed to before me by \_\_\_\_\_  
and witnesses, \_\_\_\_\_ and \_\_\_\_\_,  
this \_\_\_\_ day of \_\_\_\_\_, 2015.

\_\_\_\_\_  
Notary Public

(Seal)

**AGENT'S ACKNOWLEDGMENT**

I, \_\_\_\_\_, have read the attached Power of Attorney and 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.**

\_\_\_\_\_  
Agent Signature

\_\_\_\_\_  
Date

DRAFT



**STANDBY GUARDIANSHIP DESIGNATION**

I, \_\_\_\_\_, do hereby appoint \_\_\_\_\_ who resides at \_\_\_\_\_ as the standby guardians of my minor children:

NAME	D.O.B.
_____	_____
_____	_____

**TRIGGERING EVENTS**

The designation shall take effect upon the occurrence of the following triggering event or events:

- My doctor determines that I am mentally incapacitated
- My doctor determines that I am physically disabled and I give my written consent
- My death

I hereby revoke all former wills and codicils to the extent that there is a conflict between those formerly executed documents and this, my duly executed standby guardian designation.

**INFORMATION ON PARENTS**

I am the \_\_\_\_\_ of the child(ren).  
\_\_\_\_\_ is the other parent of the child(ren). The other parent's address is \_\_\_\_\_.

(Check all that apply):

\_\_\_ He/She died on \_\_\_\_\_.

\_\_\_ His/Her parental rights were terminated or relinquished on \_\_\_\_\_.

\_\_\_ His/Her whereabouts are unknown. I understand that all living parents whose rights have not been terminated must be given notice of the Petition for Approval of Standby Guardianship Designation pursuant to the Pennsylvania Rules of Civil Procedure or the Petition for Approval may not be granted by the court.

\_\_\_ He/She is unwilling and unable to make and carry out day-to-day child-care decisions concerning the minor for the following

reasons: \_\_\_\_\_  
\_\_\_\_\_.

\_\_\_ He/She consents to this designation and has provided written consent.

#### **AUTHORITY OF STANDBY GUARDIAN**

By executing this designation I am granting \_\_\_\_\_ the authority to act for 60 days following the occurrence of the triggering event which would allow either to act as a co-guardian with me, or in the event of my death, as guardian of my minor child(ren).

#### **ALTERNATE STANDBY GUARDIAN**

Optional: I hereby appoint \_\_\_\_\_, who resides at \_\_\_\_\_, as the alternate standby guardian to assume the duties of the standby guardian named above in the event the standby guardian is unable or refuses to act as a standby guardian.

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If I have indicated more than one triggering event, it is my intent that the triggering event which occurs first shall take precedence. If I have indicated "my death" as the triggering event, it is my intent that the person named in the designation as standby guardian for my minor children for said triggering event shall become guardian of my minor children when I die.

It is my intention to retain full parental rights to the extent consistent with my condition and to retain the authority to revoke the standby guardianship if I so choose.

This designation is made after careful reflection, while I am of sound mind.

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**Designator's signature**

\_\_\_\_\_  
**Witness's signature**

\_\_\_\_\_  
**Witness's signature**

\_\_\_\_\_  
**Number and Street**

\_\_\_\_\_  
**Number and Street**

\_\_\_\_\_  
**City, State and Zip**

\_\_\_\_\_  
**City, State and Zip**