

End of Life Issues Facing Clients with HIV:
*Wills, Living Wills, Powers of Attorney
and Standby Guardianships*

AIDS Law Project of Pennsylvania
1211 Chestnut Street, Suite 600
Philadelphia, PA 19107
(215) 587-9377
www.aidslawpa.org

Disclaimer: The material herein is provided for general information purposes only and should not be relied upon as legal advice. Legal advice must be tailored to the specific circumstances of each case, and this handout should not be used as a substitute for the advice of a lawyer. This distribution of this handout does not constitute the establishment of an attorney-client relationship between the reader and the AIDS Law Project of Pennsylvania. Applicability of the legal principles discussed on any of these pages may differ substantially in individual situations or in different states.

Part I.

Wills, Powers of Attorney, and Living Wills

Wills, living wills and powers of attorney are three important legal documents. They make sure that your clients' wishes for themselves and their belongings will be followed if they die or become too sick to speak for themselves. Without these documents, family and friends are often left not knowing what to do.

We know it is hard for people to think about these things. But many find that making these decisions not only helps their family and friends know what to do, but they also feel relieved by knowing that their wishes will be followed.

More importantly, you should stress to clients the importance of writing down their desires before they become too ill to do so. "Putting it in writing," as the saying goes, is the best way of ensuring that the client's end-of-life wishes will be understood and respected when the time comes.

The following Q&As should prove helpful in communicating the importance of these legal documents. The questions are likely ones you will hear from clients concerned about these issues.

Q: Should I have a will?

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

A will says who gets your assets after you die. Without a will, state law decides which relative gets your property. A lesbian or gay partner is not legally entitled to get anything of yours after you die unless you name them in your will. If you have no relatives and no will, your property can 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. There are other legal options, such as standby guardianship, that may be better in some cases. [Note: Standby guardianship is discussed in Part II.]

Q: Should I make 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 make 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. But if you handwrite your own, 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) have two witnesses 18 or older sign it.

Nevertheless, the best way to ensure your wishes are fulfilled is to use a lawyer to make sure you have a legally valid document.

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 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, and it becomes part of the will, 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 is a durable financial power of attorney?

A: A durable financial power of attorney is a document that gives another person of your choosing 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 the person later becomes 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 power of attorney. The person 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: 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.

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, 18 or older, and sign and date the written directive. Two people 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 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 wants to act for you.

Q: What does incompetent mean?

A: Under the law, incompetent means: “A condition in which an individual, despite being provided appropriate medical information, communication supports and technical assistance, is documented by a health care provider to be:

“(1) unable to understand the potential material benefits, risks and alternatives involved in a specific proposed health care decision;

“(2) unable to make that health care decision on his own behalf; or

“(3) unable to communicate that health care decision to any other person.”

[Note: Generally, you could explain to clients that it means: unable to understand or make informed decisions about one’s care – including being in a coma, or being awake but “out of it” – or unable to express those decisions to health care workers, such as doctors and nurses.]

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 has no cure and cannot be reversed, and you will pass away despite being treated or operated upon. Also, under the law, a doctor does not need to get a second opinion to diagnose you with an end-stage medical condition.

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: 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.

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 that medical decisions can be made for you by specific people as your health care representative. This is the list set by law that generally gives priority in the following order:

- (i) your 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, including your religious and moral beliefs and other values, to figure out how you would make health care decisions for yourself.

Q: Can I cancel my living will?

A: Yes, you can cancel, or "revoke," a living will at any time and in any manner, even when the law would not recognize you as being "of sound mind."

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: Can I "revoke" my health care power of attorney?

A: Yes, but the rules are different for revoking a health care power of attorney. You must be of sound mind, and you must do it in writing or personally tell your doctor, other health care provider, or your health care agent.

Q: What if my spouse is my health care agent, then one of us files for divorce against the other?

A: Your spouse will be removed as your health care agent when the divorce is filed *unless* your advance health care directive clearly states that you want him/her to still be your health care agent even if you get divorced.

Part II. Standby Guardianship

For clients with children, you should also go over the basics of standby guardianship. The Pennsylvania Standby Guardianship Law allows terminally ill parents to plan for their children's futures. Standby guardianship allows the naming of a guardian to take custody of a child or children when the parent becomes ill or dies.

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 saying that you want 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 child*. You can name a standby guardian if your child's other parent is deceased; his/her parental rights have been terminated; 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 do. 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.

Last Will and Testament
of

I, _____, of Philadelphia, 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 and inheritance taxes that may become payable by reason of my death, in respect to my property, comprising my gross estate for tax purposes whether or not such property passed under this Will, and any interest or penalty thereon, be paid out of the principal of my residuary estate passing hereunder, just as if such taxes were my debts; and no beneficiary shall be required to refund any taxes paid hereunder.

SECOND: I give, devise and bequeath to NAME 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: I appoint my friend, NAME, Executrix of this Will. Upon her death, resignation or inability to act or to continue to act as Executrix after having been appointed, I appoint my friend NAME, Executrix of this Will. No bond shall be required.

FOURTH: I direct that NAME 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. See attached Disposition of Remains Letter.

FIFTH: 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.

SIXTH: Notwithstanding any and all of the other provisions of this my last Will and Testament, if any beneficiary shall object to the probate of this Will, or in any manner, directly or indirectly, contest or aid in the contest of this Will, any provisions hereof or any part of the estate hereunder, then he or she shall be deemed to have predeceased me for purposes of this Will and any provisions herein contained.

I herewith affix my signature to this Will consisting of 3 pages on this the ___ day of _____, 20__ at Philadelphia, 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, NAME, well known to us declared to us and in our presence that this instrument consisting of 3 pages, is his last Will and Testament, and at NAME request we now sign this Will as witnesses in each other's presence. Further that NAME appeared to us to be of sound mind and lawful age and under no undue influence.

Witness

Witness

Address

Address

Printed Name

Printed Name

STATE OF _____ :
COUNTY OF _____ :

We, _____, and _____, the (Testatrix) 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 (Testatrix) signed and executed the foregoing instrument as (her/his last) Will in the presence and hearing of the witnesses and that (she/he) executed it as (her/his free) and voluntary act for the purposes therein expressed, and that each of the witnesses, in the presence and hearing of the (Testatrix) and each other, signed the Will as witness and that to the best of their knowledge, the (Testatrix) was at that time eighteen years of age or older, of sound mind and under no restraint or undue influence.

(Testatrix)

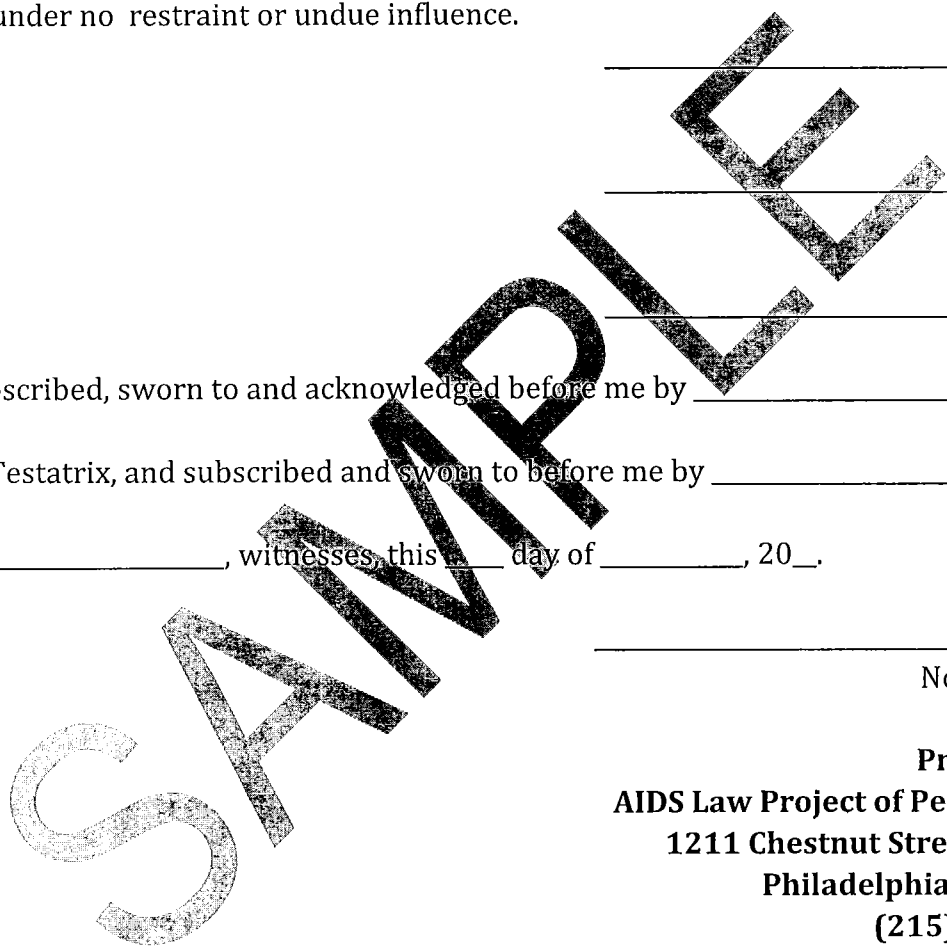
Witness

Witness

Subscribed, sworn to and acknowledged before me by _____, the Testator/Testatrix, and subscribed and sworn to before me by _____ and _____, witnesses, this _____ day of _____, 20__.

Notary Public

Prepared by:
AIDS Law Project of Pennsylvania
1211 Chestnut Street, Ste. 600
Philadelphia, PA 19107
(215) 587-9377



Letter of Instruction for Disposition of Remains
of

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

First, I direct that my partner, _____ of _____, Philadelphia, PA _____
(215) _____, 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/her;

And

Second, I direct that _____ dispose of my remains by making sure that I am
cremated.

Declarant

Date: _____, 20____.

Living Will

of

In accordance with the Pennsylvania Living Will Act, (20 Pa.C.S. §5404) 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:

I () do () do not want heart-lung resuscitation.

I () do () do not want mechanical ventilator.

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.

I () do () do not want any form of surgery or invasive diagnostic tests.

I () do () do not want antibiotics.

I () do () do not want blood or blood products.

I () do () do not want kidney dialysis.

I () do () do not want chemotherapy.

I () do () do not want radiation treatment.

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.

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:

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 in the order named:

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

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

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 _____, 2010 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, **[name]**, of **[address]**, Philadelphia County, Pennsylvania, 191**[xx]**, appoint the person named below to be my Health Care Agent to make health and personal care decisions for me.

Name of Health Care Agent:

Address of Health Care Agent:

Telephone Number of Health Care Agent:

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. 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 in the order named:

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

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

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
Philadelphia, Pennsylvania.

Printed Name

Signature

Witness Signature Address

Witness Signature Address

SAMPLE

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 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 KEEP YOUR FUNDS SEPARATE FROM YOUR AGENT'S FUNDS.

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.

Principal

Date

DURABLE FINANCIAL POWER OF ATTORNEY

I, _____ of
Philadelphia, Pennsylvania, do hereby appoint _____ of
Philadelphia, Pennsylvania, as my agent for me and on my behalf 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, including, without being limited to, the powers and actions hereinafter described:

1. To have access to my safe deposit box;
2. To draw checks against any bank account in my name; to make deposits or withdrawals and to transfer funds from one account to another; to open and close bank accounts and to sign signature cards and any other document required for such purposes;
3. To pay my bills and other financial obligations and to collect moneys owed to me;
4. To borrow money for me for any purpose, including the acquiring of United States Treasury securities redeemable at par for federal estate tax purposes, or to lend my money on such terms and with such security, if any, as my attorney deems advisable;
5. To manage, lease, sell or transfer any real estate, upon such terms and for such prices as my attorney deems advisable;

6. To sell, transfer or purchase shares of stock, bonds, securities, mortgages, automobiles and tangible personal property upon such terms and for such prices as my attorney deems advisable;
7. To invest, reinvest and keep invested or un-invested without liability moneys and assets belonging to me in such stocks, bonds and other instruments of indebtedness and investment, including without limitation United States Treasury securities redeemable at par for federal estate tax purposes, as my attorney deems advisable;
8. To make application for registration of any automobile that I own, and to purchase in my name insurance covering the ownership and operation of any automobile;
9. To vote, appoint or revoke proxies, execute any waiver of consent, attend any meeting, and otherwise to act without restriction on my behalf in connection with any stock, security, membership, proprietary, or other rights which I may have in the corporation, association, partnership, business trust, joint venture or other entity; To commence, prosecute, defend, settle or compromise any claim, suit, action, or other proceeding at law or in equity as my attorney deems advisable and for these purposes to employ counsel;
10. To create and execute legal documents on my behalf, including without limitation the exercise of options, elections under or against wills and trusts, releases, disclaimers and renunciations of interests, property and powers, contracts, and revocable or irrevocable trusts for my benefit, and to fund such trusts with property belonging to me;
11. To appear for me and to execute full powers of attorney for others to appear for me before the Treasury Department of the United States and any state or municipal authorities, in all matters pertaining to federal, state or local taxes; to examine records and receive confidential information and communications with reference to such taxes; to execute income, gift and other tax returns, and declarations of estimated tax, waivers, claims for refunds, agreements or settlement or compromise, and consents extending the statutory period for assessment or collection of taxes; to make any and all elections afforded a taxpayer with respect to the filing of returns; and for these purposes to employ counsel and accountants;
12. To exercise any rights which I have with respect to any policies of insurance on my life of which I am the owner or in which I have any rights, including but not limited to the following: the right to cancel and/or surrender the policy and to receive the cash value; the right to borrow all or part of the cash value; the right to convert the policy to a paid-up status; and the right to exercise any settlement options;
13. To make such gifts of my property to others as I may from time to time direct; To make such gifts of my property to such one or more of my spouse and issue and charities in such form and amounts as my attorney believes would be in accordance with my wishes; To make such gifts of my property to such persons and in such form and amounts as my agent believes would be in accordance with my wishes; To make such gifts of my property to

such persons and in such form and amounts as my agent in my agent's sole discretion believes are in my best interests;

- 14. With respect to any trusts created by me or for my benefit, to withdraw and receive the income or corpus of such trust or trusts;
- 15. To create a trust for my benefit to be funded by property belonging to me or to make additions to any existing trust for my benefit;
- 16. To claim an elective share of the estate of my deceased spouse, to disclaim any interest in property under any testamentary disposition or any other transfers to me and to renounce fiduciary positions.

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

IN WITNESS WHEREOF, and intending to be legally bound, I have signed my name this

_____ day of _____, 20_____.

Principal

Witness

Witness

Address

Address

Sworn or affirmed to and subscribed to before me by _____, the
Principal, and sworn and subscribed to before me by _____ and
_____ witnesses, this _____ day of _____, 20_____.

(Seal)

Notary Public

AGENT'S ACKNOWLEDGMENT

I, _____, have read the foregoing Power of Attorney and am the person identified as the agent for the principal.

I hereby acknowledge that in the absence of a specific provision to the contrary in the Power of Attorney or in 20 Pa. C.S., when I act as agent:

1. I shall exercise the powers for the benefit of the principal.
1. I shall keep the assets of the principal separate from my assets.
1. I shall exercise reasonable caution and prudence.
1. I shall keep a full and accurate record of all actions, receipts and disbursements on behalf of the principal.

Agent

Date

SAMPLE

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 died on (Date of Death).

His parental rights were terminated or relinquished on (Date of termination/relinquishment).

His 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 is unwilling and unable to make and carry out day-to-day child-care decisions concerning the minor for the following reasons:

He consents to this designation and has provided written consent.

AUTHORITY OF STANDBY GUARDIAN

By executing this designation I am granting (Name of Standby Guardian) 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 (Name of alternate standby guardian), who resides at (Address of alternate standby guardian), 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.

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)

ACCEPTANCE OF DESIGNATION

I, _____ (Name of Standby Guardian) _____, hereby accept my appointment as standby guardian for the following child(ren):

I understand that my rights and responsibilities toward the named minor child will become effective upon the occurrence of the above-stated triggering event or events. I further understand that in order to continue caring for the child, I must file a Petition for Approval of Standby Guardianship Designation with the court within 60 days of the occurrence of the triggering event if a Petition for Approval has not already been filed by the designator at the time that the triggering event occurs.

(Date)

(Standby Guardian)

CONSENT OF NON-CUSTODIAL PARENT

I, _____, am the non-custodial parent of _____.

_____ . I have read and understood this Standby Guardianship Designation regarding my child(ren) and I hereby consent to this designation.

(Date)

(Signature of Non-Custodial Parent)

CONSENT FOR SHARED CUSTODY UPON PHYSICAL DEBILITATION

This consent form is executed after careful reflection, while I am of sound mind. My health has deteriorated and has rendered me physically unable to care for my child without assistance (see attached Determination of Debilitation). Therefore I wish to share authority for my minor child(ren) with the standby guardian that I have designated in the attached designation form which was executed by me on _____.

I understand that by signing this consent form I am consenting to share legal and physical custody of my children with the designated standby guardian. The standby guardian shall become co-guardian of my children with me immediately upon my signing this consent form. The co-guardian shall have authority to make any and all medical, educational, financial decisions on behalf of my child as I can do myself. The co-guardian shall make best efforts to consult with me whenever possible concerning important decisions affecting my child's welfare, including medical, religious and education decisions.

(DATE)

(Designator's signature)

I, _____ hereby accept my appointment as co-guardian of _____ . I understand that upon signing this acceptance of appointment, I have immediate shared authority and responsibility for the named child(ren). I understand that in order to continue caring for the child(ren), if the designator has not already filed a Petition for Approval of Standby Guardianship, I must file said Petition with the court within 60 days from today.

(DATE)

(Signature of Co-guardian)

(Witness's signature)

(Witness's signature)

(Number and Street)

(Number and Street)

(City, State, and Zip)

(City, State, and Zip)