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**DAVENPORT'S
NORTH CAROLINA WILLS
AND ESTATE PLANNING
LEGAL FORMS**

Alexander William Russell

Ernest Charles Hope

Second Edition – 2018

Published by Davenport Press

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DISCLAIMER AND WARNING THIS IS NOT LEGAL ADVICE

This book with forms is not a substitute for legal advice and does not create any lawyer-client relationship. Publisher and authors warn this book with forms summarizes some areas of law and leaves out less relevant areas of law, does not cover some possible complications or exceptions, and does not say what suits a particular person or situation. This book with forms is meant for persons with average situations and wishes, and persons without these maybe should not use these materials. Publisher and authors give the standard warning for legal books and forms and say:

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CHAPTER 1

OVERVIEW OF FORMS, BOOK, AND USERS

ABOUT 9 FORMS ARE IN BOOK BUT MOST PEOPLE ONLY USE A FEW

In this book about 9 legal form are covered, but most only use a few. The forms are:

1. **Last Will And Testament (Standard)**. This form is a Will so lets person say what should happen after their death, including gifts of property and money.
2. **Last Will And Testament (Guardian)**. This Will has a “Guardian” paragraph and is used if person has child under 18 or if giving money or property to any minors.
3. **Self-Proving Affidavit**. This form is often done with a Will to help with work after death of showing a Will was signed correctly, but a Will is valid without this.
4. **Tangible Personal Property Gift List**. Though not legally binding in North Carolina some people use gift lists to say who should get many smaller non-valuable items.
5. **Health Care Power Of Attorney**. Lets person name someone to control health care and give instructions, for small chance a person later can’t control this himself.
6. **Advance Directive For A Natural Death (“Living Will”)**. This form lets one say if ever a serious medical condition occurs what extreme measures are wanted.
7. **Do Not Resuscitate and M.O.S.T.** Either of these 2 forms can be used to show paramedics and others to not try certain medical treatments, like CPR and similar.
8. **Statutory Short Form Power Of Attorney**. This form lets power over money, property, records, and more be shared with a spouse or trusted person.
9. **Authority To Consent To Health Care Of Minor**. This form lets parent or similar share with relative, friend, or teacher power to control a child’s health care.

“ESTATE PLANNING” CONTROLS THINGS ON ILLNESS OR DEATH

This book is on “Estate Planning” on how to act to control upon later illness, death, or absence health care, property, money, children and dependents, funeral, and more. Estate Planning is often not vital and many skip it and the law has some automatic rules, but it may avoid some delay, costs, or confusion. North Carolina law applies if people live here or left not deciding yet on new permanent home (e.g., some military, students, or workers).

SOME DOCUMENTS NOT IN THIS BOOK ARE LESS COMMON

This book does not provide some less common and less useful forms.

“**Revocable Living Trust**” papers may be suggested to try to have things go faster

after death and save one's family small costs and legal work later (by "avoiding probate"), but this is rarely used as the benefit is small and costs are large (one must move ownership of most things to a trust and endure years of hassle, and often a thing is missed so it fails).

"**Child Trust**" to have trust hold a minor's things til 18 is rarely done, as a) minors rarely get property or money (1 parent if they die usually gives all to other parent), and b) if a child gets major money or property a Will or judge can name a "guardian" til age 18.

"**Organ Donation**" forms do exist, but it is strongly recommended organ donation be done as part of getting a state ID or drivers license.

A "**Pet Trust**" to arrange resources to care for a pet is not easy to set up without a lawyer, and instead people can just give a trusted person a pet and a sum of money.

"**Assets and Debts Lists**" are done yearly by some people to help with facts to help sort things after their death, which can be done without forms on any blank paper.

"**Codicil**" document makes small changes to a Will, but it is better just to re-do a Will.

"**Funeral Wishes**" or similar usually is done in a Health Care Power of Attorney form.

BOOK IS SHORT WITH LAW AND FORMS AND SOME SKIP PARTS

This book gives a summary of law and range of ready-to-use legal forms. This book is short to reduce skimming or skipping and to focus on the basics. Some people skip book parts if doing simple things, or if using only a few forms, but reading this book is recommended. Early book chapters are on Wills, and later chapters each cover 1 form.

BOOK AND FORMS FOR USUAL SITUATIONS AND WISHES

This book can't cover all complications or options but should be sufficient for people with usual situations and wishes. A person knows their own situation and wishes, so knows if they are very unusual. Except for 2 Will forms all book forms are standard forms by the North Carolina legislature or a state agency meant for people to use.

IF UNUSUAL SITUATIONS OR WISHES MAY NEED LAWYER

Those with unusual situations or wishes may need lawyers for Wills and Estate Planning, like 1) wealth over \$5 million, 2) complex family situations, 3) unusual wishes for gifts, and 4) large medical concerns (like long-term care or special needs or Medicaid issues). Older or wealthier folks may find lawyers more help. But using lawyers for these things can take a few visits over months, mistakes or misheard things even with lawyers can occur, and it can cost \$1000s (and some forms over re-done every few years raising costs several-fold). Most adults have not used lawyers for this, and most either use forms or just skip it. In business and private life whether to pay lawyers is a common issue for people. **This book with forms is not a substitute for legal advice and does not create any lawyer-client relationship.**

CHAPTER 2

TERMS, PROPERTY LAW, DEBTS, TAX, AND FAMILY

THERE ARE BASIC TERMS AND IDEAS TO KNOW

Some words and ideas are basic to Wills and Estate Planning.

- A person who has died is called a “decedent” or the “deceased”.
- A “Will” or “Will and Testament” is a document with special wording and way of signing that can control issues after death. The word “Will” can be capitalized or not. A “Testament” in olden times was a document used with a Will for certain items.
- A “Testator” is a person doing a Will and being without a Will is “intestate”.
- “Property” is a) “real property” (land, buildings, and fixtures attached to land) or b) “personal property” (all else like money, accounts, vehicles, and small items).
- A person set to get gifts like by Will is a “beneficiary”, or “heir” if family.
- “Probate” is a legal process to do things after death like transfer property, pick guardians, share information, and handle owed creditors. In this state probate is fairly efficient and short, and also some informal options do exist too.
- An “Executor” (often called “Personal Representative”) is a person chosen to be in charge after someone’s death to do things including any probate.
- “Notary” (also called a “notary public”) is a person who observes signings and stamps documents, and they are at banks, court, firms, or by looking in phone books. Signing “under seal” is a bit more official and to do just sign by word “SEAL”.
- “Respectively” means “in order just said”. To sign under “Seal” has no special step.
- State law is called the North Carolina General Statutes a reference to which can look like N.C.G.S. § 90-21.17 with “§” for “section”. Federal law is the U.S. Code.
- Wills in North Carolina are usually handled in the local “Superior Court” by “Clerks” who act as judges in an office sometimes called “Probate Court”.

“ESTATE” MEANS PROPERTY OF DECEDENT OF DECEDENT

The “probate estate”, or just “estate”, is all property of someone who died that on death did not transfer automatically to other owners. Also, “Estate” can mean a temporary entity owning things a few months after death run by an executor. A deceased person’s things might be renamed for few months, like “Estate of John Jay Hill”.

IF NO WILL “INTESTATE” LAW CONTROLS PROPERTY

“Intestate” means to die with no Will, and then intestate law (“intestate succession”) says who on death gets property and money. This law may not do what is best, and a Will is recommended. If there is no Will intestate law gifts things based on family left living:

- a) if a spouse but no parents or descendants (i.e., children or grandchildren), spouse gets all estate property;
- b) if a spouse and 1 descendant, spouse gets 1/2 of real estate and first \$60,000 and after that 1/2 of other property, and descendant (i.e., child or grandchild) gets rest;
- c) if a spouse and 2 or more descendants, spouse gets 1/3 of real estate and first \$100,000 and after that 1/3 of other property, and descendants get the rest;
- d) if a spouse and no descendants but a parent or parents, spouse gets 1/2 of real estate and first \$100,000 and after that 1/2 of other property, and any parents get rest;
- e) if a parent or parents but no spouse or descendants, parents get estate property;
- f) in other cases property goes to brothers and sisters of decedent and failing that to other close family, and only if all this fails does property go to the state.

“NON-PROBATE PROPERTY” TRANSFERS IGNORE ANY WILL

Property that due to arrangements automatically transfers on a death to new owners is “non-probate property”. Examples are: “beneficiary” forms name person to get an investment or pension, property is held by 2 people as “joint tenants”, transfer-on-death or pay-on-death accounts, or life insurance names a beneficiary. Only property without non-probate transfers is left to be handled by a Will. Having non-probate transfers for all things is called “avoiding probate”, but it is rare since of higher legal costs and hassles for years to save others small work, and often property is missed so the effort fails and probate occurs. When doing a Will consider non-probate transfers that may occur automatically on death and what may be left for a Will to handle.

PERSON CAN ONLY GIFT INCLUDING IN WILL WHAT THEY OWN

A person can only gift including by Will things they now or at death legally own.

Roughly, legally a person owns money gotten as wages or salary, profit or income based on their property, and things or parts of things their resources bought or fixed.

People can change ownership by a contract or gift, and doing so in writing to be clear is best. A verbal promise to gift or be joint owners often is insufficient.

For property with title papers (real estate or vehicles) or where there is a “listed owner” (like accounts), the named persons are usually legal owners except in unusual cases.

But a person in life is free to make gifts or sell property even if it listed in a Will.

People should see what is owned by them and may be left to be handled by Will.

PROPERTY CAN BE OWNED IN WAYS THAT AFFECT GIFTING

Real estate (and other property) can be owned in ways that affect gifting:

- a) “separate” or normal ownership is if just 1 person is listed on title, or in normal case, then an owner usually has power to sell or gift during life and to gift by Will;
- b) “tenants in common” may occur if several are listed on title, then each owner has a percent share (like 50%) they can sell or gift in life or gift by Will;
- c) “joint tenant” or “joint tenancy with right of survivorship” occurs if multiple owners on title and this “joint” language is written on ownership papers or contracts, then an owner has percent share they can sell or gift in life by contract or completed gift, but can’t gift by Will since on death it goes to other joint owners (spouses often hold their house this way);
- d) a “life estate” is if title papers say this, then person uses a property for their life but can’t sell or gift in life or gift by Will since on death it goes to remainder owners;
- e) “trust property” is if papers creates a trust and people transferred property into the trust, and then only a “trustee” can sell or gift trust property, and Will has no effect.

FOR SPOUSES NORTH CAROLINA USES “SEPARATE PROPERTY” LAW

North Carolina is not a “community property” state (like California or Texas) where a spouse owns half their spouse’s income and half of most purchases during marriage. North Carolina uses “separate property” law, where each spouse usually owns 100% of their own income and things they buy. Usually only if a couple gets property or money jointly by clear agreement, by clear joint gift, or buys with joint funds, are things owned 50-50 (but on death normally such 50% share doesn’t go to other spouse unless Will says). Frankly in separate property states ownership is unequal between spouses unless they divorce. A married person doing a Will should consider what is owned by them, owned by a spouse, and what a spouse may feel entitled to so legally fight for if they don’t get.

PROBATE HELPS DO THINGS AFTER DEATH AND NICE OPTIONS EXIST

North Carolina has fairly affordable and fast probate which helps do things after a death like handle creditors, find and transfer money and items to beneficiaries, and share information. This book’s Wills have words saying informal and faster probate procedures can be used if wanted. Normal probate if done takes about 6 months.

A “Small Estate” process can done if there is under \$20,000 of property or money after any liens, or if a spouse gets all things and after liens and any payments of a Year’s Allowance there is under \$30,000. This process lets people just present an “Affidavit of Collection” to banks and others to get money or property.

A “Summary Administration” can be done if a spouse is the only person getting

anything, which lets a spouse skip many probate steps.

For a vehicle a spouse or other family can usually just file title papers to get title.

BEFORE WILL GIFTS ARE CARRIED OUT MOST DEBTS ARE PAID

After a person dies creditors owed have a claim to be paid from a decedent's money and property before most Will gifts are carried out. If not enough money or property to sell to pay debts, then Will gifts may be reduced. The order this occurs is gifts of the "Will residue" and then gifts of money are sacrificed first to pay debts, and only if needed are specific gifts of particular property sacrificed to pay debts. If debts are big even non-probate transfers done automatically at death are undone. Debts of a funeral, probate, estate attorneys, last illness, and government medical assistance have priority to be paid before most debts. Helpfully, usually homestead real estate passes free of claims of decedent's creditors if going to closest spouse or children, except for a direct mortgage which will remain. But a spouse and family can feel safe they are not usually liable to pay for a decedent's debts (except if they guaranteed or co-signed). Generally, when doing a Will consider what likely will be left after debts are paid.

BUT MORTGAGES AND LIENS ON ITEMS USUALLY NOT PAID OFF

Unlike most debts of a decedent usually paid off quickly after their death, an exception is in North Carolina the law or language in a Will generally says do not pay off debts with a related mortgage or lien. And instead a person who gets property by Will or other means must keep paying such debts to keep a property. This helps avoid a lot of money and property being used to pay large mortgages or liens which leaves less to carry out Will gifts. But if wanted a Will can say a debt with a mortgage or lien should be paid, like "Before Will gifts occur executor is to pay mortgage on _____").

NO FEDERAL OR NORTH CAROLINA TAX USUALLY OWED DUE TO DEATH

Despite what people hear or think, usually no tax is owed due to death in this state. First, the "Federal Estate And Gift Tax" only starts when a tax credit is used up that covers \$11,180,000 in 2018 after changes made by President Trump (and this rises for inflation). Second, in 2013 North Carolina eliminated its estate tax leaving no North Carolina tax on inheritances or estates. Another state's estate or inheritance tax may be owed if enough property is located there or given to someone there, but most states' taxes start at \$1,000,000 or much higher so this is rarely a problem.

YEAR'S ALLOWANCE OF \$30,000 IS FOR SPOUSE AND \$5,000 FOR CHILD

In North Carolina before most creditors are paid there is a right to a Year's Allowance of usually \$30,000 for a surviving spouse or other amount proven needed, and \$5,000 for each child under age 18 (or any disabled child to 21 or student to 22) paid to any adult watching a child. Allowance rights can be claimed from decedent's personal property and accounts but not real estate, and this can let family claim a lot. A spouse wanting an Allowance normally will have Will gifts reduced by anything paid. Although rare, a lawyer prenuptial or postnuptial agreement can give up rights as can spouse abandonment. A few debts like funeral and from a last illness do come before Allowance rights. Allowances if done can use up a decedent's things so interfere with Will gifts, but family getting most things and unworried by debts usually don't use these rights.

IF WILL NOT SUFFICIENT SPOUSE HAS RIGHTS TO CLAIM MORE THINGS

If a person doesn't give spouse by Will or by other way most property and family home, which is recommended, they maybe need to talk to a lawyer due to the law. By law a surviving spouse sometimes can claim a share of money and property of the deceased beyond what a Will gives. First, a spouse in some circumstances rather than take what Will gives can elect "Elective Share" of things based on marriage length starting at 15%, 25% after 5 years, 33% after 10 years, and 50% after 15 years. Complex calculations of this can cover decedent's estate property, non-estate property if rights were kept, and even property recently gifted away, but with fair plus or minus offsets for items or debts gotten by spouse due to marriage. Second, as alternative, a spouse in some circumstances can choose "life estate" to use for life 1/3 of decedent's real estate or at least the current house if owned by decedent. If a life-estate in a house is claimed a spouse also gets household furnishings. Obviously, if a spouse chooses to use either 2 rights it may use enough of things to interfere with Will or other gifts. A lawyer pre- or post-nuptial agreement can give up these rights as can abandonment.

DO NEW WILL IF DIVORCE, MARRY, HAVE NEW CHILD, OR MOVE

Divorcing, marrying, having a new child, or moving to a new state after doing a Will can have big legal effects. If these occur it is recommended people do new Will.

CHAPTER 3

WILL BASICS

“WILL” IS COMMON DOCUMENT TO CONTROL ISSUES ARISING AT DEATH

A "Will" is a common legal document done by a person at least age 18 and of sound mind to control issues that may arise after death. Issues in a Will include who gets money and property, if less costly procedures can be used, who will oversee things as “executor”, and who will be guardian of minor children and their property. Not doing a Will can cause confusion, delay, costs, court hearings, and family fights. A Will is a “Last Will And Testament” since a Testament document use to be done with a Will to cover certain property, and person writing a Will is called a “Testator”.

WILL CAN BE REVOKED BY NEW WILL, TEARING UP, OR MARKING

To cancel or “revoke” a Will a person can do a new Will which says it revokes previous Wills, or just acts to show intent to revoke (like tearing up the Will or writing “canceled” on every page). Revoking a Will does not usually bring back into effect an earlier Will. Crossing out or marking just parts of a Will usually does not affect a Will.

WILL WITHOUT WITNESSES OR ORAL WILL IS NOT RECOMMENDED

In North Carolina a Will without witnesses (a “Holographic Will”) is allowed if all major parts are handwritten by person doing the Will (not typed, not computer printed, and not done by another). But unwitnessed Wills are not recommended since several people who know handwriting later must testify, they lack helpful legal language, court costs are higher, and such Wills more often are disputed and invalid.

In North Carolina an “Oral Will” spoken to 2 persons can also be used if a person knows they are near death and does die, but it can only cover personal property like household items and faces more court costs and are more often invalid.

IN WILL CAN NAME “EXECUTOR” TO HANDLE MATTERS AFTER DEATH

Most Wills name a person as “executor” who after death handles probate and paperwork, finds and transfers property and money, pays taxes, and pays creditors. Anyone over 18 can be executor and this often is a spouse, adult son or daughter, or family friend (or a lawyer or bank can do this if they agree and are paid). If an executor needs help from a lawyer or accountant this is paid using estate property. If needed and no Will names an executor then a judge in a hearing picks an executor from a spouse and family. A person not living in North Carolina can be executor but this can require a costly bond and require use of a local agent like a lawyer to receive papers. Naming 2 persons as

executor to both act is allowed but rare because of likely delays and legal problems. An executor is paid back for most costs they pay, and unless a Will says otherwise executors can also ask and be paid for their work as executor but this is rarely sought as it uses up estate assets and is taxable income. An executor often is called “Personal Representative”.

EXECUTOR HAS POWER TO EASILY COLLECT AND TRANSFER PROPERTY

An executor by law usually has lots of power, and can easily collect and transfer property and money of a decedent. Banks, investment companies, and others will usually follow an executor. Most Wills have words giving executors more powers.

IN WILL CAN SAY NO TO “BOND” AND ALLOW INFORMAL PROBATE

Most Wills say no “bond” or “surety” is required. A bond or surety is insurance against executor misconduct paid using up estate funds, but this usually is not needed as an executor is trusted. A bond for executors not living in North Carolina may be required even if a Will says otherwise, so it may be cheaper to name someone living in the state. Most Wills also say unsupervised and informal probate can be used.

IN WILL CAN NAME “GUARDIAN OF THE PERSON” TO CARE FOR MINORS

If someone dies with a child under 18 the other biological or adopted parent (but not step-parent) takes over automatically unless found “unfit” by a court. But in case needed a Will can name a “guardian of the person” to care for children under 18 (naming someone avoids a hearing where a judge picks from family who may argue). A court will name as guardian who a parent named in a Will unless strong evidence shows this person cannot do the job well. Naming 2 persons to be guardian of the person at the same time is allowed but not usual to avoid likely legal problems (like disagreements or problems from divorce). People without minor children can cut the guardians clause, skip it, fill in anyway, or use a Will without this. Since naming for child the other parent as this guardian is pointless (they automatically take over unless unfit), most name a close relative or friend who is healthy.

IN WILL CAN NAME “GUARDIAN OF ESTATE” FOR PROPERTY OF MINORS

In a Will a “guardian of the estate” can be named who manages property and money of a minor under 18 and decides how to help pay for things (like living costs, health care, and schools until 18 when anything left is handed over). Minors under 18 cannot legally control major property. Unless a person is bad with money often the same person is “guardian of the estate” who is “guardian of the person” to avoid arguments and since a person raising children usually knows best what is needed. A court will name as guardian the person who is named in a Will unless evidence shows they cannot do a good job.

But a guardian of the estate does face costs of paperwork and reporting yearly to a court looking for misuse. Due to legal issues many avoid giving to minors under 18, like by giving via family such as, “I give \$90 to Ed Bud in hopes he helps his son Brian Bud”. Usually when picking “guardian of the estate” a minor gets things mostly when all parents are dead, so people name for this guardian a friend or close relative.

USUALLY “ALTERNATE” EXECUTOR OR GUARDIAN NOT NEEDED

For the rare case a person who is named executor or guardian dies or is unavailable people can just write a new Will or a judge will pick someone if needed. Since such a person dying is so rare, this book’s Wills do not name alternative executors or guardians. But if want one can put in a Will after executor or guardian words like: “or if they are reasonably unable to serve I nominate ___ to serve”.

WILL IGNORES PLURAL OR GENDER AND HAS MISCELLANEOUS SECTION

Most Wills say singular, plural, or gender meaning of words are ignored which lets people write in blank spaces anything they want. For this reason many Wills use “they” when a Will space might refer to just 1 person. Most Wills also have a “Miscellaneous” section with legal language that help avoid common legal problems.

BEFORE SIGNING LAW REQUIRES PERSON “PUBLISH” WILL TO WITNESSES

Importantly, in North Carolina for a Will to be valid the person doing the Will before signing must “signify” or identify the document as his or her Will to witnesses. This is often called “publishing” a Will. Often said by a person to 2 witnesses is like, “My name is Kevin Eric Baker, and this is the Will I want, and I want you 2 persons to witness it”.

DO NEW WILL IF DIVORCE, MARRY, HAVE NEW CHILD, OR MOVE

Divorcing, marrying, having a new child, or moving to a new state after doing a Will can have big legal effects. If these occur it is recommended people do new Will.

CHAPTER 4

WILLS AND GIFTING IN DETAIL

GIFTS IN WILL CAN SAY ON DEATH WHERE THINGS GO

A Will is the normal way a person says what happens on death to their property and money. As this book said, a Will covers property and money a person owned that is left after any automatic “non-probate” transfers occur after they die. In a Will to do a gift simple words can be used, like “I give ___ to ___”. Simple words avoid need to use complex legal words like “bequest”, “devise” or “legacy”.

MOSTLY FREE TO GIVE UNEQUAL OR ZERO TO PEOPLE BUT NOT SPOUSE

Unlike states like Louisiana or old European law, in North Carolina one is free to give unequal amounts or nothing to most people even a child (“disinherit” them). But as said earlier, if a spouse is not getting most things (say 80%) and family house, a spouse may use certain rights to 50% or other percent of a deceased spouse’s things.

FOR WILLS KEEP SIMPLE, GIVE TO FAMILY, AND RE-DO IF NEEDED

As this book shows a Will is not that hard to do. People can write a Will based on circumstances but if things change re-do it. Many people keep it very simple and give 100% including any residence to a spouse or if no spouse to children with few other small gifts, then if a spouse dies a person re-does their Will to gift others more.

IN WILL CAN DO “SPECIFIC GIFTS” TO GIFT PARTICULAR PROPERTY

Most Wills in a main area have “Specific Gift” clauses to gift particular things to persons named. Specific gifts can be 1 item or several items, and can include an account or investment, clothing, household item, tools, cars, and real estate.

Specific gifts get some preference to be done before most other Will gifts, and the law tries to pay creditors not using things in specific gifts. Examples are:

“I give my Oak Table to Sue Moe”, “I give big piano and ’89 Ford truck to Ed Fox”,

“I give UBank account ending #8473 to Ivy Dee”,

“I give 83 Oak Rd., Greebo, NC property including land and buildings to Amy Sue Wall”.

IN WILL CAN DO “GENERAL GIFTS” INCLUDING OF MONEY AMOUNTS

Many people in Wills give “general gifts” where particular items aren’t named, including giving a category of items or money amounts. Giving money is easy, has less legal risk, and can match exactly what gifting is wanted. Gifting specific property is riskier

since maybe over time property was lost or sold, value of property greatly changed, or items may have to be sold to pay debts. An executor of course has power to use accounts and sell property to carry out money gifts. A person named in money gift can agree with to take specific property of same value, so are not limited to money. Money gifts often are put in a Will's specific gift area. Examples of general gifts are:

“I give \$10 to Wendy Olson”,

“I give all clothing to Teresa Baker”,

“I give all accounts, stocks, and investments to Ben Sinatra”,

“I give \$100 to each of my grand-children and great-grandchildren”, and

“I give a total of \$90,000 to Ben Fox, Jan Fox, Ed Goon, Bo Hill, Ned Kix, and Li Chin”.

TYPE OF WILL GIFTS USUALLY DONE IN CERTAIN ORDER

Concerning gift order usually after a death when Will gifts are carried out 1) “specific gifts” with particular property are done first, 2) “general gifts” like money gifts are done next, and 3) “residue” gift is done last (which covers all that remains). Gifts of same type usually occur in order written in a Will. People should consider if gifts to be carried out earlier may leave less for later gifts (and also consider payment of debts).

CAN NAME ALTERNATE BENEFICIARY BY “LINEAL DESCENDANTS”

The term “or their lineal descendants” in a Will gift means if a person named has died the gift goes to his or her closest descendants like children or grandchildren. Most Wills say “lineal descendants” shall be “per stirpes” meaning “by branch”, so if several get a Will gift it is split into equal shares for each branch of the family. For example, if old Abe dies and his sons Ben and Charlie had died with 1 and 2 kids respectively, then Ben's 1 child gets 50% and Ken's 2 children get 25%. Usually if a beneficiary of a residue clause dies with no descendants their share goes to other persons named in a residue clause. A spouse is not a “descendant”.

CAN DO SPECIFIC ALTERNATE BENEFICIARY BUT NOT DONE IN THIS BOOK

In case a person in a Will gift dies some Will gifts name alternate beneficiaries, taking lots of work, like “To Bo but if he doesn't survive to Ed”. Also “anti-lapse” laws in some states say if close family of a Will maker die certain other family take a gift for them unless a Will overrules this. But this beneficiary-replacement can be confusing and a lot of work, and a beneficiary dying is rare. So, this book's Wills skip having alternate beneficiaries and require survival and overrules state anti-lapse laws, so if a beneficiary has died the Will gift fails unless a gift has alternative beneficiaries (so “lineal descendants” alternates if written

will be followed). So, in this book's Wills unless a replacement beneficiary is written if a beneficiary has died the gift has no effect and the property will pass via the residue clause.

IN JOINT GIFT SEVERAL GET A THING BUT MUST SURVIVE TO GET

In a "joint gift" the same thing can go to several people to share, like "I give my piano to Ed Coe and Jill Hill" and "I give \$900 to Kim Baker and Ann Moxy". Wills in this book do say in joint gifts if some beneficiaries have died the others split the decedent's share unless an alternate beneficiary is named in a gift. This book's Wills say unless joint beneficiaries agree how to use something the executor will sell it and give cash.

BENEFICIARIES CAN GET PERCENTAGE NOT JUST EQUAL SHARE

If several people are gifted the same property or money this usually means they get an equal share, but if wanted a percentages can be written out. Often a Will's "residue clause" is gifted by percentages adding to 100% to get the exact split wanted and felt fair. Examples are, "I give all my furniture 70% to Ken Hud and 30% to Sue Doe" and "I give the residue 90% to Nina Joy my wife and 10% to Judy Boxer my daughter".

IN THIS BOOK'S WILLS "SURVIVAL" BY PERSON IS CONDITION FOR GIFTS

In many Wills some or all gifts may say "to ___ if they survive me", so if the named person is not living when a Will is used the gift does not occur (then usually property in the gift passes via a residue "catch-call" clause). If survival is not a condition what happens is uncertain and for family laws may provide replacement if allowed by a Will). This book's Wills make clear in the "Miscellaneous" section survival is a condition for all gifts, despite any laws, but this doesn't stop use of a named alternate beneficiary if wanted, like "Bo Lee or if he fails to survive to Ed Lee" or "To Ed Ho, or if he fails to survive his lineal descendants".

MOSTLY GIVE TO PARENT OF CHILD NOT TO MINOR CHILD

Due to legal problems and costs most people do not gift to child under 18, and instead they mostly gift to a parent who is trusted to spend resources on a child. Between parents in a family, normally 1 parent in a Will gifts all to the other parent who is trusted to care for all, and splitting half to spouse and half to children is rare. But if wanted it is OK if property and money goes to a child under 18, and for this a Will or a judge can name a guardian of the estate to manage and spend for them til 18.

NEED GOOD DESCRIPTION OF PERSONS IN WILL

People named in a Will must be described so persons who knew a decedent can tell

who probably was meant. Full legal names are best, and usually use full name of the person doing the Will. If just a legal name may be confusing one can explain, like “Jon Joshua Hill also-known-as Fishy Hill”. Wills can skip most of names if its clear enough, like “I give \$10 to each of my sister Ann’s kids”. It can help to describe a bit, like “Ed Smith my uncle” or “Joe Brown my fishing buddy with ugly hats.” A charity can be phoned for a full name, or just described, like “I give \$900 to the food bank in Oriental, NC that helped uncle Jim”).

NEED GOOD DESCRIPTION OF PROPERTY GIFTED IN WILL

Property in a Will gift must be described so those who knew a decedent can tell the likely meaning, but this is easy as most people only own 1 of a thing. It is fine to describe property by category, by usual location, or have a long list of property in 1 gift to save space (like “blue lamp”, “my clothes”, “property usually in my cabin”, or “axes, tools, my tractor, and my 1991 Jeep”). For real property a “legal description” is best (like “Lot 2, Block 4 of Polk’s Addition to Boyd, NC”), but just giving by street address is OK (like “11 Main St., Boyd, NC buildings, land and fixtures”).

IMPORTANTLY, “RESIDUE CLAUSE” HELPS GIFT ANYTHING LEFT

Importantly, Wills have a “residue clause” near their end helpfully giving all property or money not given or used in another way to persons named in the clause. Some call this the “catch-all” or “left-over” clause. If a Will gift fails to occur (like the beneficiary is dead and survival was required) the gift’s property or money is usually controlled by a residue clause. Importantly, many use a residue clause to do most gifting as it has less legal risk and is easy (with no need to describe what is given).

An example of a filled-out residue clause, and the clause from this book’s Wills, is:

EXAMPLE:

“RESIDUE CLAUSE. I give any property or money not transferred by other Will provisions, and the rest, residue, and remainder of my estate, as follows:

a) to Ann Sue Kent my wife **only if they survive me** with those of these persons who survive taking the share of non-surviving persons, and

b) if none of these just named persons do survive I give this to Michael A. Kent, Edward P. Kent, and Julie M. Zharkov my children **or their lineal descendants** which descendants shall take the share of their non-surviving relative.”

“RESIDUE CLAUSE” IS USEFUL AND HAS OPTIONS TO USE

This book’s Wills residue clause helpfully can handle all property and money left over, and it can usually achieve what people want. This residue clause has:

- 1)** a 1st space to name 1 or more persons to get things if they are surviving (alive) at the Will maker’s death, with any of these named persons if alive taking the share of any of these not surviving (many name a spouse or children in 1st space), **and**
- 2)** a 2nd space to name 1 or more persons to get things if all people named in the 1st space don’t survive past the Will maker, and if a person in this 2nd space has not survived it is said their “descendants” like children take their share (many name next closest family or friends in this 2nd space).

Helpful other options exist:

- a)** People in the residue clause can leave the 1st space empty and only name people in the 2nd space to more widely spread things, and ensure if someone named dies their descendants get their share, **and**
- b)** People can list several persons with specific percentages adding to 100%, to give the right share to persons (say 80% to spouse, 15% to kids, rest to friends).

This residue clause is simple, and those in the 1st space gets things if alive, and if 2nd space applies persons here split things or if deceased their nearest descendants take their share.

USUALLY KEEP WILL SIMPLE, CONSIDER SPOUSE, AND RE-DO IF WANT

Often people feel they should make a complicated Will, but it is often best to keep gifting simple. But people should remember any spouse may need property to live on with or without children, so if someone has a living spouse they usually give all or most to a spouse in a Will. If people do a Will and then their spouse dies, they can re-do their Will to remove gifts to the spouse to instead gift more to other persons.

CHAPTER 5

FORM 1: LAST WILL AND TESTAMENT (STANDARD)

FORM 1 IS STANDARD WILL WITHOUT GUARDIANS PARAGRAPH

Form 1 is a standard Will to control things especially gifts of property and money after a person's death. Form 1 is written to be flexible and do what most people want. The Will in Form 1 has no "Guardian" paragraph so is for a person without child under age 18 and also not giving property or money to any minor under age 18.

A Will is often called a "Last Will And Testament" and person doing a Will is called "Testator". Anyone of sound mind at least age 18 can write a Will.

WILL IN FORM 1 HAS BASIC LAYOUT WITH SEVERAL PARTS

The Will in Form 1 has a basic layout with several parts.

Right away in the Will there is a place for the person making the Will who is called the Testator to write his or her name and last county of residence in the state.

The 1st paragraph, "Gifts", has many spaces to use if wanted to write gifts of specific property, or general gifts of money or categories of things.

The 2nd paragraph, "Residue", has the helpful "residue clause" to give anything not given elsewhere to persons who are named in this paragraph.

The 3rd paragraph, "Administration", has space to name an "executor" to handle matters after someone's death and give them power.

The 4th paragraph, "Miscellaneous", has several sentences of legal language written to help avoid certain legal problems.

Finally, there is a place for the person doing the Will and 2 witnesses to sign. By signatures also is are spots for names of people to be printed by pen or computer.

BEFORE SIGNING LAW REQUIRES PERSON IDENTIFY WILL TO WITNESSES

Very importantly, in North Carolina for a Will to be valid the person doing the Will before they sign must "signify" or identify the document as his or her Will to witnesses. This is often called "publishing" the Will. Often said by a person doing a Will to 2 witnesses is like, "My name is Greg Jon Hill, and this is the Will I want, and I want you 2 persons to witness it". Witnesses don't usually read a Will except 1 paragraph they sign.

RESIDUE CLAUSE HAS 2 PLACES TO NAME PERSONS

Please read earlier in this book about the residue clause. In a Will residue clause anything left not gifted earlier in a Will goes to those named here. This often is called a “catch-all” or “left-over” clause. Many use a residue clause to gift most things as it has less legal risk and is easy (there is no need to describe things since anything leftover is gifted). The residue clause may seem complex, but those named in the 1st space get things if alive when a Will maker dies, and if the 2nd space applies those named get things or if deceased their descendants take their share (children, or if no children then grandchildren).

WILL IS SIGNED BEFORE 2 WITNESSES NOT GETTING GIFTS IN WILL

To be valid most Wills are signed by a person before 2 witnesses who then also sign the Will. Witnesses should be persons not getting gifts in a Will or whose spouses are not getting gifts in a Will since acting as witness cancels such gifts. Someone named as executor or guardian can be a witness. Everyone should see each other’s hands as they use a permanent pen or marker and sign. It is rare and not required but some people sign or initial each Will page to reduce chances for forgery. Witnesses should be over age 18 but young enough to be available later if needed.

KEEP COMPLETED WILL IN SAFE PLACE IT WILL BE FOUND

When completed a Will should be kept in a safe place it will be found within weeks of death like a desk, filing cabinet, in a safe (someone else should have the combination or key), or with a trusted person like spouse or executor. North Carolina allows people to file a Will with the local court for safekeeping, and it can be later withdrawn if wanted. People often tell others where to look for a Will.

**FORM 1:
LAST WILL AND TESTAMENT (STANDARD)**

LAST WILL AND TESTAMENT

I, _____ of _____ County, North Carolina, hereby make, declare, and publish this as my Last Will and Testament (called here my "Will"), and I do hereby revoke any Wills and Codicils earlier made by me.

1. GIFTS. I give in this section these specific gifts and general gifts including of money to the following beneficiaries but only if they survive me.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

2. RESIDUE. I give the residue and remainder of my property and estate not already transferred by the preceding provisions of this Will, of any kind and nature and wherever located, whether now owned or later acquired, as follows:

a) to _____ **only if they survive me** with those of these persons who survive taking the share of non-surviving persons, and

b) if none of these just named persons do survive I give this to _____ **or their lineal descendants** which descendants shall take the share of their non-surviving relative.

3. ADMINISTRATION. I name and appoint _____ as **executor** of my Will and of my estate. I direct unsupervised administration of my Will and estate, and administration may be as informal and using any method as my executor chooses.

4. MISCELLANEOUS. The following applies to this Will, my estate, and generally.

Survival. For any Will gift a beneficiary must survive to get a gift, and survival is an absolute condition and anti-lapse laws or similar have no effect, but an alternative beneficiary may take a gift for non-surviving persons (including “lineal descendants”).

Survivors Take Joint Gift. For gifts naming several beneficiaries if any are deceased their share goes to surviving beneficiaries in proportion to their shares, including with the residue, but not if there is an alternate beneficiary. If joint beneficiaries disagree on use of property the executor may sell it and give cash.

Gift Order. Priority of Will gifts of the same type is based on order they written.

Gift. Words “give” and “gift” also mean devise, bequest, grant, legacy or similar.

Informal. I request unsupervised administration of my Will and estate and administration in as informal a manner as possible including non-probate procedures.

Descendants. A gift including the residue to “lineal descendants” is “per stirpes”.

Meaning. Plural, singular, or gender meanings do not limit this Will such as “they”.

Unfilled Will. No unfilled or blank part is a mistake including in the residue clause.

Omitted Persons. A failure to gift to any family including a child is not a mistake.

Residue. The residue includes lapsed or failed gifts, inheritances owned, insurance paid to estate, and property with power of appointment or testamentary disposition.

Paying Debts. Some debts must by law be paid, and my executor has power to pay debts in time and manner and using property or money from my estate they find best.

Mortgage or Lien. I direct no debt with an encumbrance such as mortgage or lien should be paid, and if paid for some reason contribution is owed my estate and others.

Events During Life. No gift or other transfer made during life reduces or offsets any gift or part of this Will, unless expressly called a “loan” or “advancement”.

Items No Longer Held. A gift of property including real property that is no longer owned has no effect and a Will gift of such lapses without ademption or replacement.

Executor and Guardians. Any executor or guardian serving under this Will or otherwise:
a) shall qualify and serve without bond, surety, or other security, b) may act independently

as fully as I could and not have to file reports or involve a court or others like do inventory, accounting, or request approval, c) shall have all power or authority that may be given by law, and d) is given fullest discretion and power allowed including may without any other action or court approval sell, keep, lease, or exchange any property with no liability for decrease in value, settle claims for and against the estate, pay debts, and use a power of sale over real and other property. I without limitation grant any executor all powers set forth in North Carolina General Statutes § 32-27. Executor also means “personal representative”.

IN WITNESS WHEREOF, I, _____, as testator, sign my name below to this instrument, this __ day of _____, 20__, and do declare that I sign this instrument as my Last Will and Testament, that I sign it willingly while under no constraint or undue influence and as my free and voluntary act for purposes expressed therein, and that I am at least 18 years of age and of sound and disposing mind and memory.

Testator

We, _____ and _____, the witnesses, do say and declare that the above-named testator signed and executed this instrument as his or her Last Will and Testament and signified this and signed it willingly, and that each of us in the presence and hearing of the testator and each other hereby signs this Will as witness to the testator’s signing, and that to the best of our knowledge the testator is 18 years of age or older, of sound and disposing mind and memory, and under no constraint or undue influence.

Witness

Witness

CHAPTER 6

FORM 2: LAST WILL AND TESTAMENT (GUARDIAN)

FORM 2 IS A WILL WITH GUARDIAN PARAGRAPH

Form 2 is a Will which can control things especially gifts of property and money after a person's death. Form 2 has a "Guardians" paragraph to name a "guardian of the person" to care for a child under 18, and also has a "guardian of the estate" to manage a child's or other minor's property to 18. Form 2 is for a person with child under 18 or if person is giving property or money to a minor. A Will is often called a "Last Will And Testament" and person writing it called "Testator". Anyone of sound mind at least 18 can do a Will.

WILL IN FORM 1 HAS BASIC LAYOUT WITH SEVERAL PARTS

The Will in Form 1 has a basic layout with several parts.

Right away in the Will there is a place for the person making the Will who is called the Testator to write his or her name and last county of residence in the state.

The 1st paragraph, "Gifts", has many spaces to use if wanted to write gifts of specific property, or general gifts of money or categories of things.

The 2nd paragraph, "Residue", has the helpful "residue clause" to give anything not given elsewhere to persons who are named in this paragraph.

The 3rd paragraph, "Administration", has space to name an "executor" to handle matters after someone's death and give them power.

The 4th paragraph, "Guardians", lets one name a "guardian of the person" to if needed care for children under 18, and lets one name a "guardian of the estate" to if needed manage and spend on them a child's or other minor's property until 18.

The 5th paragraph, "Miscellaneous", has several sentences of legal language written to help avoid certain legal problems.

Finally, there is a place for the person doing the Will and 2 witnesses to sign. By signatures also is are spots for names of people to be printed by pen or computer.

BEFORE SIGNING LAW REQUIRES PERSON "PUBLISH" WILL TO WITNESSES

Very importantly, in North Carolina for a Will to be valid the person doing the Will before they sign must "signify" or identify the document as his or her Will to witnesses. This is often called "publishing" the Will. Often said by a person doing a Will to 2 witnesses is like, "My name is Greg Jon Hill, and this is the Will I want, and I want you 2 persons to witness it". Witnesses don't usually read a Will except 1 paragraph they sign.

RESIDUE CLAUSE HAS 2 PLACES TO NAME PERSONS

Please read earlier in this book about the residue clause. In a Will residue clause anything left not gifted earlier in a Will goes to those named here. This often is called a “catch-all” or “left-over” clause. Many use a residue clause to gift most things as it has less legal risk and is easy (there is no need to describe things since anything leftover is gifted). The residue clause may seem complex, but those named in the 1st space get things if alive when a Will maker dies, and if the 2nd space applies those named get things or if deceased their descendants take their share (children, or if no children then grandchildren).

WILL IS SIGNED BEFORE 2 WITNESSES NOT GETTING GIFTS IN WILL

To be valid most Wills are signed by a person before 2 witnesses who then also sign the Will. Witnesses should be persons not getting gifts in a Will or whose spouses are not getting gifts in a Will since acting as witness cancels such gifts. Someone named as executor or guardian can be a witness. Everyone should see each other’s hands as they use a permanent pen or marker and sign. It is rare and not required but some people sign or initial each Will page to reduce chances for forgery. Witnesses should be over age 18 but young enough to be available later if needed.

KEEP COMPLETED WILL IN SAFE PLACE IT WILL BE FOUND

When completed a Will should be kept in a safe place it will be found within weeks of death like a desk, filing cabinet, in a safe (someone else should have the combination or key), or with a trusted person like spouse or executor. North Carolina allows people to file a Will with the local court for safekeeping, and it can be later withdrawn if wanted. People often tell others where to look for a Will.

**FORM 2:
LAST WILL AND TESTAMENT (GUARDIAN)**

LAST WILL AND TESTAMENT

I, _____ of _____ County, North Carolina, hereby make, declare, and publish this as my Last Will and Testament (called here my "Will"), and I do hereby revoke any Wills and Codicils earlier made by me.

1. GIFTS. I give in this section these specific gifts and general gifts including of money to the following beneficiaries but only if they survive me.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

I give _____ to _____.

2. RESIDUE. I give the residue and remainder of my property and estate not already transferred by the preceding provisions of this Will, of any kind and nature and wherever located, whether now owned or later acquired, as follows:

a) to _____ **only if they survive me** with those of these persons who survive taking the share of non-surviving persons, and

b) if none of these just named persons do survive I give this to _____ **or their lineal descendants** which descendants shall take the share of their non-surviving relative.

3. ADMINISTRATION. I name and appoint _____ as **executor** of my Will and of my estate. I direct unsupervised administration of my Will and estate, and administration may be as informal and using any method as my executor chooses.

4. GUARDIANS. If a child of mine has not reached age 18 then I name and appoint _____ to be **guardian of the person** of such child. I also name and appoint _____ as **guardian of the estate** and property of such child or any other person under age 18 who receive or possess money or property.

5. MISCELLANEOUS. The following applies to this Will, my estate, and generally.

Survival. For any Will gift a beneficiary must survive to get a gift, and survival is an absolute condition and anti-lapse laws or similar have no effect, but an alternative beneficiary may take a gift for non-surviving persons (including “lineal descendants”).

Survivors Take Joint Gift. For gifts naming several beneficiaries if any are deceased their share goes to surviving beneficiaries in proportion to their shares, including with the residue, but not if there is an alternate beneficiary. If joint beneficiaries disagree on use of property the executor may sell it and give cash.

Gift Order. Priority of Will gifts of the same type is based on order they written.

Gift. Words “give” and “gift” also mean devise, bequest, grant, legacy or similar.

Informal. I request unsupervised administration of my Will and estate and administration in as informal a manner as possible including non-probate procedures.

Descendants. A gift including the residue to “lineal descendants” is “per stirpes”.

Meaning. Plural, singular, or gender meanings do not limit this Will such as “they”.

Unfilled Will. No unfilled or blank part is a mistake including in the residue clause.

Omitted Persons. A failure to gift to any family including a child is not a mistake.

Residue. The residue includes lapsed or failed gifts, inheritances owned, insurance paid to estate, and property with power of appointment or testamentary disposition.

Paying Debts. Some debts must by law be paid, and my executor has power to pay debts in time and manner and using property or money from my estate they find best.

Mortgage or Lien. I direct no debt with an encumbrance such as mortgage or lien should be paid, and if paid for some reason contribution is owed my estate and others.

Events During Life. No gift or other transfer made during life reduces or offsets any gift or part of this Will, unless expressly called a “loan” or “advancement”.

Items No Longer Held. A gift of property including real property that is no longer owned has no effect and a Will gift of such lapses without ademption or replacement.

Executor and Guardians. Any executor or guardian serving under this Will or otherwise:
a) shall qualify and serve without bond, surety, or other security, b) may act independently

as fully as I could and not have to file reports or involve a court or others like do inventory, accounting, or request approval, c) shall have all power or authority that may be given by law, and d) is given fullest discretion and power allowed including may without any other action or court approval sell, keep, lease, or exchange any property with no liability for decrease in value, settle claims for and against the estate, pay debts, and use a power of sale over real and other property. I without limitation grant any executor all powers set forth in North Carolina General Statutes § 32-27. Executor also means “personal representative”.

IN WITNESS WHEREOF, I, _____, as testator, sign my name below to this instrument, this __ day of _____, 20__, and do declare that I sign this instrument as my Last Will and Testament, that I sign it willingly while under no constraint or undue influence and as my free and voluntary act for purposes expressed therein, and that I am at least 18 years of age and of sound and disposing mind and memory.

Testator

We, _____ and _____, the witnesses, do say and declare that the above-named testator signed and executed this instrument as his or her Last Will and Testament and signified this and signed it willingly, and that each of us in the presence and hearing of the testator and each other hereby signs this Will as witness to the testator’s signing, and that to the best of our knowledge the testator is 18 years of age or older, of sound and disposing mind and memory, and under no constraint or undue influence.

Witness

Witness

CHAPTER 7

FORM 3: SELF-PROVING AFFIDAVIT

FORM 3 IS “SELF-PROVING AFFIDAVIT” FORM

Form 3 in this book is the “Self-Proving Affidavit” form which is copied from the standard form written by the North Carolina legislature and found in state law.

DOING FORM WITH WILL IS OPTIONAL BUT REDUCES LATER WORK

The Self-Proving Affidavit form is optional but is often done along with a Will to avoid later legal work after the person making the Will dies. If this form is not done witnesses to a Will signing (or persons familiar with everyone’s signatures) have to be found after a death and testify convincingly in court. Without this form it is more likely a Will can’t be sufficiently proven so is not followed. Usually a Self-Proving Affidavit form is done minutes after a Will is signed but it also can be done anytime later when people are before a notary. In some cases people to make supporting a Will easier modify a Will to increase the normal 2 witnesses to 3 or 4 witnesses, but this is rare. When the form is completed it should be attached by staple or similar means to the Will it supports.

DO FORM BY TESTATOR AND 2 WITNESSES SIGNING BEFORE NOTARY

To be valid the Self-Proving Affidavit form must be signed before a notary by the person making the Will and the 2 witnesses to the Will signing. A person who is a notary (also called “notary public”) can be found at banks, insurance agencies, court, or (often best to avoid delay and bother) by hiring a notary from the phonebook.

**FORM 3:
SELF-PROVING AFFIDAVIT**

SELF-PROVING AFFIDAVIT

STATE OF NORTH CAROLINA

COUNTY/CITY OF _____

Before me, the undersigned authority, on this day personally appeared _____, _____, and _____, known to me to be the testator and the witnesses, respectively, whose names are signed to the attached or foregoing instrument and, all of these persons being by me first duly sworn. The testator, declared to me and to the witnesses in my presence: That said instrument is his last will; that he had willingly signed or directed another to sign the same for him, and executed it in the presence of said witnesses as his free and voluntary act for the purposes therein expressed; or, that the testator signified that the instrument was his instrument by acknowledging to them his signature previously affixed thereto.

The said witnesses stated before me that the foregoing will was executed and acknowledged by the testator as his last will in the presence of said witnesses who, in his presence and at his request, subscribed their names thereto as attesting witnesses and that the testator, at the time of the execution of said will, was over the age of 18 years and of sound and disposing mind and memory.

Testator

Witness

Witness

Subscribed, sworn and acknowledged before me by _____, the testator, subscribed and sworn before me by _____ and _____ witnesses, this ___ day of _____, A.D. 20__.

(SEAL)

(SIGNED) _____
(OFFICIAL CAPACITY OF OFFICER)

CHAPTER 8

FORM 4: TANGIBLE PERSONAL PROPERTY GIFT LIST

FORM 4 IS GIFT LIST WHICH IS NOT LEGAL BUT SOME STILL USE

This Chapter has a gift list form which is not legally enforceable and many skip but some people still use.

GIFT LIST IS NOT LEGALLY ENFORCEABLE BUT SOME STILL USE

North Carolina unlike half the states does not have a law saying simple gift lists a person writes after a Will are legally enforceable upon a person's death. State law requires gifts to occur on death to be legally enforceable must be put in a Will. An exception exists for lists pre-existing when a Will is written but this is complicated and rarely used. Despite not being legally binding, many people still use gift lists hoping people will voluntarily carry out the gifts, despite this meaning people must give up things they legally could keep. Some people use lists after talking to a trusted spouse or friend who agrees to follow lists and who then in a Will is gifted most things. Note, people use lists mostly due to the time and difficulty in re-doing a Will which is less a problem if using forms.

LIST FORM ONLY GIVES "TANGIBLE PERSONAL PROPERTY"

In states gift lists are allowed and as standard practice the kinds of property in lists is limited to "tangible personal property". This means tangible property with solid form (not accounts or most investments), only personal property so not real property (not buildings or land), and not money (not new or antique coins or bills). And property from a trade or business usually should not be in a list. Examples of tangible personal property to gift in a list include clothes, furniture, electronics, food and drink, antiques, vehicles, tools, arts and crafts, books, and jewelry. Improper kinds of items in a list usually is ignored.

TO COMPLETE SIGN AND DATE GIFT LIST AND PUT WITH WILL

To finish a gift list sign and date it. Store lists so they are found later, often just paperclipped to a Will. To revoke a gift list rip up the page or mark it canceled.

**FORM 4:
TANGIBLE PERSONAL PROPERTY GIFT LIST**

TANGIBLE PERSONAL PROPERTY GIFT LIST

I understand this gift list may not be legally enforceable in North Carolina but I request and hope people voluntarily follow this list.

This gift list is for tangible personal property, and other things will be ignored so not intangible property like accounts, not land or buildings, and not money.

No gift is made if no recipient of the gift survived me, and for gifts to multiple recipients shares of non-survivors go to other recipients of the gift.

Several gift lists may be done and more recent controls if any conflict.

No gift list should be followed if not found within 60 days of my death.

PROPERTY ITEMS GIFTED

NAMES OF RECIPIENTS

_____	to	_____
_____	to	_____
_____	to	_____
_____	to	_____
_____	to	_____
_____	to	_____
_____	to	_____
_____	to	_____
_____	to	_____
_____	to	_____

SIGNED: _____

DATE: _____

CHAPTER 9

FORM 5: HEALTH CARE POWER OF ATTORNEY

FORM 5 IS “HEALTH CARE POWER OF ATTORNEY” FORM

Form 5 in this book is the “Health Care Power Of Attorney” form which is copied from the standard form written in law by the North Carolina legislature for people.

IN FORM CAN NAME AGENT, ALTERNATE AGENTS, AND DOCTORS

Form 5 lets a person name a person “Agent” or “Health Care Agent” to control their health care in the very rare case doctors finds a person lacks “capacity” to make or communicate their own health decisions like normal. Often people name as Agent a spouse, adult child, or friend. Legally the person to be Agent must be over 18 and not involved in giving the person health care or be an employee at such places. There is space to name 2 alternate persons to be Agent in case a person is unavailable, but many skip this as rarely needed. There is room to name particular doctors to make the decision on capacity, but most skip this so any attending doctor can decide. In general an Agent must follow verbal or written instructions given them anytime and serve “best interests” of a person which can include limiting care. Of course if needed closest family like a spouse can get a court order to control health care, but if the form is done it avoids delay and court hearing. Many who do this form skip similar forms like skipping Form 6 in this book.

IF WANTED IN FORM CAN INITIAL AND WRITE TO LIMIT POWER OF AGENT

In the middle of the Health Care Power of Attorney form are several sections that can be initialed and then written in to limit an Agent’s power. But most people do not limit or give written instructions here, to avoid legal issues and since the Agent is trusted.

PERSON SHOULD SIGN FORM WITH 2 WITNESSES AND A NOTARY

To be valid the form must be signed by the person doing the form before a notary and before 2 witnesses who then sign too. A witness signing the form can’t be related to the person doing the form including by marriage, can’t be an attending physician or health care provider for the person (or employee or manager of these), and can’t be someone entitled to money or property of the person whether by Will, state law, or other reason like a debt owed. Once done the original form is kept by a person and copies shown to doctors and others, and there is a rarely used “Registry” at the Secretary of State where a person can file to show they did the form. Anytime while of sound mind a person can cancel a form by written or verbal statement and then medical personnel should be told.

**FORM 5:
HEALTH CARE POWER OF ATTORNEY**

HEALTH CARE POWER OF ATTORNEY

NOTE: YOU SHOULD USE THIS DOCUMENT TO NAME A PERSON AS YOUR HEALTH CARE AGENT IF YOU ARE COMFORTABLE GIVING THAT PERSON BROAD AND SWEEPING POWERS TO MAKE HEALTH CARE DECISIONS FOR YOU. THERE IS NO LEGAL REQUIREMENT THAT ANYONE EXECUTE A HEALTH CARE POWER OF ATTORNEY.

***EXPLANATION:** You have the right to name someone to make health care decisions for you when you cannot make or communicate those decisions. This form may be used to create a health care power of attorney, and meets the requirements of North Carolina law. However, you are not required to use this form, and North Carolina law allows the use of other forms that meet certain requirements. If you prepare your own health care power of attorney, you should be very careful to make sure it is consistent with North Carolina law.*

*This document gives the person you designate as your health care agent **broad powers** to make health care decisions for you when you cannot make the decision yourself or cannot communicate your decision to other people. You should discuss your wishes concerning life-prolonging measures, mental health treatment, and other health care decisions with your health care agent. Except to the extent that you express specific limitations or restrictions in this form, your health care agent may make any health care decision you could make yourself.*

This form does not impose a duty on your health care agent to exercise granted powers, but when a power is exercised, your health care agent will be obligated to use due care to act in your best interests and in accordance with this document.

This Health Care Power of Attorney form is intended to be valid in any jurisdiction in which it is presented, but places outside North Carolina may impose requirements that this form does not meet.

*If you want to use this form, you must complete it, sign it, and have your signature witnessed by two qualified witnesses and proved by a notary public. Follow the instructions about which choices you can initial very carefully. **Do not sign this form until** two witnesses and a notary public are present to watch you sign it. You then should give a copy to your health care agent and to any alternates you name. You should consider filing it with the Advance Health Care Directive Registry maintained by the North Carolina Secretary of State: <http://www.nclifelinks.org/ahcdr/>*

1. Designation of Health Care Agent.

I, _____, being of sound mind, hereby appoint the following person(s) to serve as my health care agent(s) to act for me and in my name (in any way I could act in person) to make health care decisions for me as authorized in this document. My designated health care agent(s) **shall serve alone**, in the order named [naming only one person is common].

A. Name: _____
Home Address: _____

Work Phone: _____
Cell Phone: _____
Email: _____

B. Name: _____
Home Address: _____

Work Phone: _____
Cell Phone: _____
Email: _____

C. Name: _____
Home Address: _____

Work Phone: _____
Cell Phone: _____
Email: _____

Any successor health care agent designated shall be vested with the same power and duties as if originally named as my health care agent, and shall serve any time his or her predecessor is not reasonably available or is unwilling or unable to serve in that capacity.

2. Effectiveness of Appointment.

My designation of a health care agent expires only when I revoke it. Absent revocation, the authority granted in this document shall become effective when and if one of the physician(s) listed below determines that I lack capacity to make or communicate decisions relating to my health care, and will continue in effect during that incapacity, or until my death, except if I authorize my health care agent to exercise my rights with respect to anatomical gifts, autopsy, or disposition of my remains, this authority will continue after my death to the extent necessary to exercise that authority.

1. _____ (Physician) 2. _____ (Physician)

If I have not designated a physician, or no physician(s) named above is reasonably available, the determination that I lack capacity to make or communicate decisions relating to my health care shall be made by my attending physician.

3. Revocation.

Any time while I am competent, I may revoke this power of attorney in a writing I sign or by communicating my intent to revoke, in any clear and consistent manner, to my health care agent or my health care provider.

4. General Statement of Authority Granted.

Subject to any restrictions set forth in Section 5 below, I grant to my health care agent full power and authority to make and carry out all health care decisions for me. These decisions include, but are not limited to:

- A. Requesting, reviewing, and receiving any information, verbal or written, regarding my physical or mental health, including, but not limited to, medical and hospital records, and to consent to the disclosure of this information.
- B. Employing or discharging my health care providers.
- C. Consenting to and authorizing my admission to and discharge from a hospital, nursing or convalescent home, hospice, long-term care facility, or other health care facility.
- D. Consenting to and authorizing my admission to and retention in a facility for the care or treatment of mental illness.
- E. Consenting to and authorizing the administration of medications for mental health treatment and electroconvulsive treatment (ECT) commonly referred to as "shock treatment."
- F. Giving consent for, withdrawing consent for, or withholding consent for, X-ray, anesthesia, medication, surgery, and all other diagnostic and treatment procedures ordered by or under the authorization of a licensed physician, dentist, podiatrist, or other health care provider. This authorization specifically includes the power to consent to measures for relief of pain.
- G. Authorizing the withholding or withdrawal of life-prolonging measures.

- H. Providing my medical information at the request of any individual acting as my attorney-in-fact under a durable power of attorney or as a Trustee or successor Trustee under any Trust Agreement of which I am a Grantor or Trustee, or at the request of any other individual whom my health care agent believes should have such information. I desire that such information be provided whenever it would expedite the prompt and proper handling of my affairs or the affairs of any person or entity for which I have some responsibility. In addition, I authorize my health care agent to take any and all legal steps necessary to ensure compliance with my instructions providing access to my protected health information. Such steps shall include resorting to any and all legal procedures in and out of courts as may be necessary to enforce my rights under the law and shall include attempting to recover attorneys' fees against anyone who does not comply with this health care power of attorney.
- I. To the extent I have not already made valid and enforceable arrangements during my lifetime that have not been revoked, exercising any right I may have to authorize an autopsy or direct the disposition of my remains.
- J. Taking any lawful actions that may be necessary to carry out these decisions, including, but not limited to: (i) signing, executing, delivering, and acknowledging any agreement, release, authorization, or other document that may be necessary, desirable, convenient, or proper in order to exercise and carry out any of these powers; (ii) granting releases of liability to medical providers or others; and (iii) incurring reasonable costs on my behalf related to exercising these powers, provided that this health care power of attorney shall not give my health care agent general authority over my property or financial affairs.

5. Special Provisions and Limitations.

(Notice: The authority granted in this document is intended to be as broad as possible so that your health care agent will have authority to make any decisions you could make to obtain or terminate any type of health care treatment or service. If you wish to limit the scope of your health care agent's powers, you may do so in this section. **If none of the following are initialed, there will be no special limitations on your agent's authority.**)

- A. Limitations about Artificial Nutrition or Hydration: In exercising the authority to make health care decisions on my behalf, my health care agent:

_____ shall NOT have the authority to withhold artificial nutrition (such as
(Initial) through tubes) OR may exercise that authority only in accordance with
the following special provisions:

_____ shall NOT have the authority to withhold artificial hydration (such as
(Initial) through tubes) OR may exercise that authority only in accordance with
the following special provisions:

NOTE: If you initial either block but do not insert any special provisions, your health care agent shall have NO AUTHORITY to withhold artificial nutrition or hydration.

(Initial)

B. **Limitations Concerning Health Care Decisions.** In exercising the authority to make health care decisions on my behalf, the authority of my health care agent is subject to the following special provisions: (Here you may include any specific provisions you deem appropriate such as: your own definition of when life prolonging measures should be withheld or discontinued, or instructions to refuse any specific types of treatment that are inconsistent with your religious beliefs, or are unacceptable to you for any other reason.)

NOTE: DO NOT initial unless you insert a limitation.

(Initial)

C. **Limitations Concerning Mental Health Decisions.** In exercising the authority to make mental health decisions on my behalf, the authority of my health care agent is subject to the following special provisions: (Here you may include any specific provisions you deem appropriate such as: limiting the grant of authority to make only mental health treatment decisions, your own instructions regarding the administration or withholding of psychotropic medications and electroconvulsive treatment (ECT), instructions regarding your admission to and retention in a health care facility for mental health treatment, or instructions to refuse any specific types of treatment that are unacceptable to you.)

NOTE: DO NOT initial unless you insert a limitation.

(Initial)

- D. Advance Instruction for Mental Health Treatment. (Notice: This health care power of attorney may incorporate or be combined with an advance instruction for mental health treatment, executed in accordance with Part 2 of Article 3 of Chapter 122C of the General Statutes, which you may use to state your instructions regarding mental health treatment in the event you lack capacity to make or communicate mental health treatment decisions. Because your health care agent's decisions must be consistent with any statements you have expressed in an advance instruction, you should indicate here whether you have executed an advance instruction for mental health treatment):
- _____
- _____

NOTE: DO NOT initial unless you insert a limitation.

(Initial)

- E. Autopsy and Disposition of Remains. In exercising authority to make decisions regarding autopsy and **disposition of remains on my behalf**, the authority of my health care agent is subject to the following specific provisions and limitations. (Here you may include any specific limitations you deem appropriate such as: limiting the grant of authority and the scope of authority, or instructions regarding burial or cremation):
- _____
- _____

NOTE: DO NOT initial unless you insert a limitation.

6. Organ Donation.

To the extent I have not already made valid and enforceable arrangements during my lifetime that have not been revoked, my health care agent may exercise any right I may have to:

(Initial)

donate any needed organs or parts; or

(Initial)

donate only the following organs or parts:

NOTE: DO NOT INITIAL BOTH BLOCKS ABOVE.

(Initial)

donate my body for anatomical study if needed.

(Initial)

In exercising the authority to make donations, my health care agent is subject to the following special provisions and limitations: (Here you may include any specific limitations you deem appropriate such as: limiting the grant of authority and the scope of authority, or instructions regarding gifts of the body or body parts.)

NOTE: DO NOT initial unless you insert a limitation.

NOTE: NO AUTHORITY FOR ORGAN DONATION IS GRANTED IN THIS INSTRUMENT WITHOUT YOUR INITIALS.

7. Guardianship Provision.

If it becomes necessary for a court to appoint a guardian of my person, I nominate the persons designated in Section 1, in the order named, to be the guardian of my person, to serve without bond or security. The guardian shall act consistently with G.S. 35A-1201(a)(5).

8. Reliance of Third Parties on Health Care Agent.

- A. No person who relies in good faith upon the authority of or any representations by my health care agent shall be liable to me, my estate, my heirs, successors, assigns, or personal representatives, for actions or omissions in reliance on that authority or those representations.
- B. The powers conferred on my health care agent by this document may be exercised by my health care agent alone, and my health care agent's signature or action taken under the authority granted in this document may be accepted by persons as fully authorized by me and with the same force and effect as if I were personally present, competent, and acting on my own behalf. All acts performed in good faith by my health care agent pursuant to this power of attorney are done with my consent and shall have the same validity and effect as if I were present and exercised the powers myself, and shall inure to the benefit of and bind me, my estate, my heirs, successors, assigns, and personal representatives. The authority of my health care agent pursuant to this power of attorney shall be superior to and binding upon my family, relatives, friends, and others.

9. Miscellaneous Provisions.

- A. **Revocation of Prior Powers of Attorney.** I revoke any prior health care power of attorney. The preceding sentence is not intended to revoke any general powers of attorney, some of the provisions of which may relate to health care; however, this power of attorney shall take precedence over any health care provisions in a valid general power of attorney I have not revoked.
- B. **Jurisdiction, Severability, and Durability.** This Health Care Power of Attorney is intended to be valid in any jurisdiction in which it is presented. The powers delegated under this power of attorney are severable, so that the invalidity of one or more powers shall not affect any others. This power of attorney shall not be affected or revoked by my incapacity or mental incompetence.
- C. **Health Care Agent Not Liable.** My health care agent and my health care agent's estate, heirs, successors, and assigns are hereby released and forever discharged by me, my estate, my heirs, successors, assigns, and personal representatives from all liability and from all claims or demands of all kinds arising out of my health care agent's acts or omissions, except for my health care agent's willful misconduct or gross negligence.
- D. **No Civil or Criminal Liability.** No act or omission of my health care agent, or of any other person, entity, institution, or facility acting in good faith in reliance on the authority of my health care agent pursuant to this Health Care Power of Attorney shall be considered suicide, nor the cause of my death for any civil or criminal purposes, nor shall it be considered unprofessional conduct or as lack of professional competence. Any person, entity, institution, or facility against whom criminal or civil liability is asserted because of conduct authorized by this Health Care Power of Attorney may interpose this document as a defense.
- E. **Reimbursement.** My health care agent shall be entitled to reimbursement for all reasonable expenses incurred as a result of carrying out any provision of this directive.

[PRINCIPAL'S SIGNATURE]

By signing here, I indicate that I am mentally alert and competent, fully informed as to the contents of this document, and understand the full import of this grant of powers to my health care agent.

This the _____ day of _____, 20_____.

Signature of Principal (SEAL)

[WITNESSES]

I hereby state that the principal, _____, being of sound mind, signed (or directed another to sign on the principal's behalf) the foregoing health care power of attorney in my presence, and that I am not related to the principal by blood or marriage, and I would not be entitled to any portion of the estate of the principal under any existing will or codicil of the principal or as an heir under the Intestate Succession Act, if the principal died on this date without a will. I also state that I am not the principal's attending physician, nor a licensed health care provider or mental health treatment provider who is (1) an employee of the principal's attending physician or mental health treatment provider, (2) an employee of the health facility in which the principal is a patient, or (3) an employee of a nursing home or any adult care home where the principal resides. I further state that I do not have any claim against the principal or the estate of the principal.

Date: _____

Witness: _____

Date: _____

Witness: _____

[NOTARY]

_____ COUNTY, _____ STATE

Sworn to (or affirmed) and subscribed before me this day by _____
(type/print name of signer)

(type/print name of witness)

(type/print name of witness)

Date: _____
(Official Seal)

Signature of Notary Public
_____, Notary Public
Printed or typed name
My commission expires: _____

CHAPTER 10

FORM 6: ADVANCE DIRECTIVE FOR A NATURAL DEATH (“LIVING WILL”)

FORM 6 IS STANDARD FORM FOR END OF LIFE ISSUES

Form 6, “Advance Directive For A Natural Death (“Living Will”)", is a standard form by the legislature and found in state law, and it covers some end of life issues.

FORM CAN SAY HOW HEALTH CARE SHOULD STOP IN SOME BAD CASES

Any form giving health care instructions is an “Advance Directive”, and Form 5 lets a person say how care should stop in some bad situations. This form only applies in very rare case doctors finds person lacks “capacity” to make or say their own health decisions like normal. Many who do a “Health Care Power of Attorney” (Form 4) skip doing this form, as it can name family or friend Agent to control medical care in rare case needed which is usually better than Living Will (but some do both forms).

CAN PICK WHEN FORM APPLIES AND WHAT IT COVERS

In the form’s 1st question it asks when it applies and most initial all 3, of if:

- 1) “incurable or irreversible condition [with] death in a relatively short period”,
- 2) “will never regain consciousness”, or
- 3) “advanced dementia or cognitive ability [loss is] not reversible”.

In the 2nd question one can initial to say if doctors and family “may” or “shall withhold life sustaining procedures” as instructed, with most people select “shall”.

In a 3rd question a person can initial to say how the order to not give life sustaining procedures is or is not changed for artificial feeding or hydration (most pick “not”).

In a 4th question a one can say how a Health Care Agent named in another form is to follow instructions in this form (most say if they have Agent they can do as they want).

PERSON SHOULD SIGN FORM WITH 2 WITNESSES AND A NOTARY

To be valid the form must be signed by the person doing the form before a notary and before 2 witnesses who then sign too. A witness signing the form can’t be related to the person including by marriage, can’t be an attending physician or health care provider actually giving care (or employee or manager of these), and can’t be entitled to anything from the person (whether by Will, state law, or reason like debt owed). Once done the original form is kept by a person and copies shown doctors and others, and there is a rarely used “Registry” at the Secretary of State. A person can cancel a form anytime by written or verbal statement, and usually tell doctors and others if this is done.

**FORM 6:
ADVANCE DIRECTIVE FOR A NATURAL
DEATH (“LIVING WILL”)**

ADVANCE DIRECTIVE FOR A NATURAL DEATH ("LIVING WILL")

NOTE: YOU SHOULD USE THIS DOCUMENT TO GIVE YOUR HEALTH CARE PROVIDERS INSTRUCTIONS TO WITHHOLD OR WITHDRAW LIFE-PROLONGING MEASURES IN CERTAIN SITUATIONS. THERE IS NO LEGAL REQUIREMENT THAT ANYONE EXECUTE A LIVING WILL.

GENERAL INSTRUCTIONS: You can use this Advance Directive ("Living Will") form to give instructions for the future if you want your health care providers to withhold or withdraw life-prolonging measures in certain situations. You should talk to your doctor about what these terms mean. The Living Will states what choices you would have made for yourself if you were able to communicate. Talk to your family members, friends, and others you trust about your choices. Also, it is a good idea to talk with professionals such as your doctors, clergy, and lawyers before you complete and sign this Living Will.

You do not have to use this form to give those instructions, but if you create your own Advance Directive you need to be very careful to ensure that it is consistent with North Carolina law.

This Living Will form is intended to be valid in any jurisdiction in which it is presented, but places outside North Carolina may impose requirements that this form does not meet.

If you want to use this form, you must complete it, sign it, and have your signature witnessed by two qualified witnesses and proved by a notary public. Follow the instructions about which choices you can initial very carefully. **Do not sign this form until** two witnesses and a notary public are present to watch you sign it. You then should consider giving a copy to your primary physician and/or a trusted relative, and should consider filing it with the Advanced Health Care Directive Registry maintained by the North Carolina Secretary of State: <http://www.nclifelinks.org/ahcdr/>

My Desire for a Natural Death

I, _____, being of sound mind, desire that, as specified below, my life not be prolonged by life-prolonging measures:

1. When My Directives Apply

My directions about prolonging my life shall apply **IF** my attending physician determines that I lack capacity to make or communicate health care decisions and:

NOTE: YOU MAY INITIAL ANY AND ALL OF THESE CHOICES.

_____ (Initial)	I have an incurable or irreversible condition that will result in my death within a relatively short period of time.
_____ (Initial)	I become unconscious and my health care providers determine that, to a high degree of medical certainty, I will never regain my consciousness.
_____ (Initial)	I suffer from advanced dementia or other condition which results in the substantial loss of my cognitive ability and my health care providers determine that, to a high degree of medical certainty, this loss is not reversible.

2. These are My Directives about Prolonging My Life:

In those situations I have initialed in Section 1, I direct that my health care providers:

NOTE: INITIAL ONLY IN ONE PLACE.

_____ (Initial)	may withhold or withdraw life-prolonging measures.
_____ (Initial)	shall withhold or withdraw life-prolonging measures.

3. **Exceptions - "Artificial Nutrition or Hydration"**

NOTE: INITIAL ONLY IF YOU WANT TO MAKE EXCEPTIONS TO YOUR INSTRUCTIONS IN PARAGRAPH 2.

EVEN THOUGH I do not want my life prolonged in those situations I initialed in Section 1:

<hr/> (Initial)	I <i>DO</i> want to receive BOTH artificial hydration AND artificial nutrition (for example, through tubes) in those situations. NOTE: DO NOT INITIAL THIS BLOCK IF ONE OF THE BLOCKS BELOW IS INITIALED.
<hr/> (Initial)	I <i>DO</i> want to receive ONLY artificial hydration (for example, through tubes) in those situations NOTE: DO NOT INITIAL THE BLOCK ABOVE OR BELOW IF THIS BLOCK IS INITIALED.
<hr/> (Initial)	I <i>DO</i> want to receive ONLY artificial nutrition (for example, through tubes) in those situations. NOTE: DO NOT INITIAL EITHER OF THE TWO BLOCKS ABOVE IF THIS BLOCK IS INITIALED.

4. **I Wish to be Made as Comfortable as Possible**

I direct that my health care providers take reasonable steps to keep me as clean, comfortable, and free of pain as possible so my dignity is maintained, even though this may hasten death.

5. **I Understand my Advance Directive**

I am aware and understand that this document directs certain life-prolonging measures to be withheld or discontinued in accordance with my advance instructions.

6. **If I have an Available Health Care Agent**

If I have appointed a health care agent by executing a health care power of attorney or similar instrument, and that health care agent is acting and available and gives instructions that differ from this Advance Directive, then I direct that:

<hr/> (Initial)	Follow Advance Directive: This Advance Directive will override instructions my health care agent gives about prolonging my life.
<hr/> (Initial)	Follow Health Care Agent: My health care agent has authority to override this Advance Directive.

NOTE: DO NOT INITIAL BOTH BLOCKS. IF YOU DO NOT INITIAL EITHER BOX, THEN YOUR HEALTH CARE PROVIDERS WILL FOLLOW THIS ADVANCE DIRECTIVE AND IGNORE THE INSTRUCTIONS OF YOUR HEALTH CARE AGENT ABOUT PROLONGING YOUR LIFE.

7. **My Health Care Providers May Rely on this Directive**

My health care providers shall not be liable to me or to my family, my estate, my heirs, or my personal representative for following the instructions I give in this instrument. Following my directions shall not be considered suicide, or the cause of my death, or malpractice or unprofessional conduct. If I have revoked this instrument but my health care providers do not know that I have done so, and they follow the instructions in this instrument in good faith, they shall be entitled to the same protections to which they would have been entitled if the instrument had not been revoked.

8. I Want this Directive to be Effective Anywhere

I intend that this Advance Directive be followed by any health care provider in any place.

9. I have the Right to Revoke this Advance Directive

I understand that at any time I may revoke this Advance Directive in a writing I sign or by communicating in any clear and consistent manner my intent to revoke it to my attending physician. I understand that if I revoke this instrument I should try to destroy all copies of it.

[SIGNATURE]

This the ____ day of _____, 20__.

Print Name _____

[WITNESSES]

I hereby state that the declarant, _____, being of sound mind, signed (or directed another to sign on declarant's behalf) the foregoing Advance Directive for a Natural Death in my presence, and that I am not related to the declarant by blood or marriage, and I would not be entitled to any portion of the estate of the declarant under any existing will or codicil of the declarant or as an heir under the Intestate Succession Act, if the declarant died on this date without a will. I also state that I am not the declarant's attending physician, nor a licensed health care provider who is (1) an employee of the declarant's attending physician, (2) nor an employee of the health facility in which the declarant is a patient, or (3) an employee of a nursing home or any adult care home where the declarant resides. I further state that I do not have any claim against the declarant or the estate of the declarant.

Date: _____

Witness: _____

Date: _____

Witness: _____

[NOTARY]

_____ COUNTY, _____ STATE

Sworn to (or affirmed) and subscribed before me this day by _____
(type/print name of declarant)

(type/print name of witness)

(type/print name of witness)

Date _____

Signature of Notary Public

(Official Seal)

_____, Notary Public
Printed or typed name

My commission expires: _____

CHAPTER 11

FORM 7: DO NOT RESUSCITATE AND M.O.S.T.

FORM 7 IS “DO NOT RESUSCITATE” AND “M.O.S.T.” FORMS

Form 7 is actually 2 forms and people usually use just 1, the “Do Not Resuscitate” form and the “M.O.S.T.” form (“Medical Orders for Scope of Treatment”). This book’s forms are sample copies of the standard form. A doctor or similar usually provides these forms and can answer questions and help fill out a form.

DO NOT RESUSCITATE FORM CONTROLS EMERGENCY CARE

People when in extremely bad health can ask for a Do Not Resuscitate form to quickly show paramedics and other medical personnel no attempt to restart the heart or breathing should be tried (called cardiopulmonary resuscitation or “CPR”). A copy of the form is usually put in a person’s medical file to be followed. People to ensure a form is followed if outside a hospital or similar should keep the form near their body, or wear a special “bracelet” with form information. Paramedics and other personnel will follow a Do Not Resuscitate form or a M.O.S.T. form and verbal instruction a patient gives them, but mostly won’t follow other health care forms.

M.O.S.T. FORM CONTROLS EMERGENCY AND HOSPITAL CARE

People when in extremely bad health can ask for a M.O.S.T. form which stands for stands for “Medical Orders for Scope of Treatment”. This form has very specific orders about health care to be given that paramedics and also most medical personnel will follow. The M.O.S.T. form has more details than a Do Not Resuscitate form which it started replacing in 2009. A copy of the form is usually put in a person’s medical file. People to ensure a form is followed if outside a hospital or other facility should keep it near their body, or wear a special “bracelet” with form information.

PERSON AND DOCTOR MUST SIGN FORM

To be valid a Do Not Resuscitate form or a M.O.S.T. form must be signed by the person requesting the form and also by a doctor or similar professional (a doctor usually provides these forms and explains form options). If a person is unable to control their own health care another person with legal authority like a Health Care Agent may request these forms, but such a person must respect known wishes of a person and any documents stating wishes. Once done a form can be revoked later by verbal or written statement of a person, and then doctors and others should be told.

**FORM 7:
DO-NOT-RESUSCITATE AND M.O.S.T.**



Effective Date: _____

Expiration Date, if any _____

Check box if no expiration

DO NOT RESUSCITATE ORDER

Patient's full name _____

In the event of cardiac and/or pulmonary arrest of the patient, efforts at cardiopulmonary resuscitation of the patient SHOULD NOT be initiated. This order does not affect other medically indicated and comfort care.

I have documented the basis for this order and the consent required by the NC General Statute 90-21.17(b) in the patient's records.

Signature of Attending Physician/Physician Assistant/Nurse Practitioner

Printed Name of Attending Physician

Address

City, State, Zip

Telephone Number (office)

Telephone Number (emergency)

Do Not Copy

Do Not Alter



BLANK PAGE

HIPAA PERMITS DISCLOSURE OF MOST TO OTHER HEALTH CARE PROFESSIONALS AS NECESSARY



Medical Orders

for Scope of Treatment (MOST)

This is a Physician Order Sheet based on the patient's medical condition and wishes. Any section not completed indicates full treatment for that section. **When the need occurs, first follow these orders, then contact physician.**

Patient's Last Name:	Effective Date of Form:
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Patient's First Name, Middle Initial:	Patient's Date of Birth:
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Section A <i>Check One Box Only</i>	<p>CARDIOPULMONARY RESUSCITATION (CPR): Patient has no pulse and is not breathing.</p> <p><input type="checkbox"/> Attempt Resuscitation (CPR) <input type="checkbox"/> Do Not Attempt Resuscitation (DNR/no CPR)</p> <p>When not in cardiopulmonary arrest, follow orders in B, C, and D.</p>
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Section B <i>Check One Box Only</i>	<p>MEDICAL INTERVENTIONS: Patient has pulse and/or is breathing.</p> <p><input type="checkbox"/> Full Scope of Treatment: Use intubation, advanced airway interventions, mechanical ventilation, cardioversion as indicated, medical treatment, IV fluids, etc.; also provide comfort measures. Transfer to hospital if indicated.</p> <p><input type="checkbox"/> Limited Additional Interventions: Use medical treatment, IV fluids and cardiac monitoring as indicated. Do not use intubation or mechanical ventilation. May consider use of less invasive airway support such as BiPAP or CPAP. Also provide comfort measures. Transfer to hospital if indicated. Avoid intensive care.</p> <p><input type="checkbox"/> Comfort Measures: Keep clean, warm and dry. Use medication by any route, positioning, wound care and other measures to relieve pain and suffering. Use oxygen, suction and manual treatment of airway obstruction as needed for comfort. Do not transfer to hospital unless comfort needs cannot be met in current location.</p> <p><i>Other Instructions</i> _____</p>
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Section C <i>Check One Box Only</i>	<p>ANTIBIOTICS</p> <p><input type="checkbox"/> Antibiotics if indicated</p> <p><input type="checkbox"/> Determine use or limitation of antibiotics when infection occurs</p> <p><input type="checkbox"/> No Antibiotics (use other measures to relieve symptoms)</p> <p><i>Other Instructions</i> _____</p>
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Section D <i>Check One Box Only in Each Column</i>	<p>MEDICALLY ADMINISTERED FLUIDS AND NUTRITION: Offer oral fluids and nutrition if physically feasible.</p> <table style="width: 100%;"> <tr> <td><input type="checkbox"/> IV fluids if indicated</td> <td><input type="checkbox"/> Feeding tube long-term if indicated</td> </tr> <tr> <td><input type="checkbox"/> IV fluids for a defined trial period</td> <td><input type="checkbox"/> Feeding tube for a defined trial period</td> </tr> <tr> <td><input type="checkbox"/> No IV fluids (provide other measures to ensure comfort)</td> <td><input type="checkbox"/> No feeding tube</td> </tr> </table> <p><i>Other Instructions</i> _____</p>	<input type="checkbox"/> IV fluids if indicated	<input type="checkbox"/> Feeding tube long-term if indicated	<input type="checkbox"/> IV fluids for a defined trial period	<input type="checkbox"/> Feeding tube for a defined trial period	<input type="checkbox"/> No IV fluids (provide other measures to ensure comfort)	<input type="checkbox"/> No feeding tube
<input type="checkbox"/> IV fluids if indicated	<input type="checkbox"/> Feeding tube long-term if indicated						
<input type="checkbox"/> IV fluids for a defined trial period	<input type="checkbox"/> Feeding tube for a defined trial period						
<input type="checkbox"/> No IV fluids (provide other measures to ensure comfort)	<input type="checkbox"/> No feeding tube						

Section E <i>Check The Appropriate Box</i>	<p>DISCUSSED WITH AND AGREED TO BY:</p> <table style="width: 100%;"> <tr> <td><input type="checkbox"/> Patient</td> <td><input type="checkbox"/> Majority of patient's reasonably available parents and adult children</td> </tr> <tr> <td><input type="checkbox"/> Parent or guardian if patient is a minor</td> <td><input type="checkbox"/> Majority of patient's reasonably available adult siblings</td> </tr> <tr> <td><input type="checkbox"/> Health care agent</td> <td><input type="checkbox"/> An individual with an established relationship with the patient who is acting in good faith and can reliably convey the wishes of the patient</td> </tr> <tr> <td><input type="checkbox"/> Legal guardian of the patient</td> <td></td> </tr> <tr> <td><input type="checkbox"/> Attorney-in-fact with power to make health care decisions</td> <td></td> </tr> <tr> <td><input type="checkbox"/> Spouse</td> <td></td> </tr> </table> <p><i>Basis for order must be documented in medical record.</i></p>	<input type="checkbox"/> Patient	<input type="checkbox"/> Majority of patient's reasonably available parents and adult children	<input type="checkbox"/> Parent or guardian if patient is a minor	<input type="checkbox"/> Majority of patient's reasonably available adult siblings	<input type="checkbox"/> Health care agent	<input type="checkbox"/> An individual with an established relationship with the patient who is acting in good faith and can reliably convey the wishes of the patient	<input type="checkbox"/> Legal guardian of the patient		<input type="checkbox"/> Attorney-in-fact with power to make health care decisions		<input type="checkbox"/> Spouse	
<input type="checkbox"/> Patient	<input type="checkbox"/> Majority of patient's reasonably available parents and adult children												
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<input type="checkbox"/> Legal guardian of the patient													
<input type="checkbox"/> Attorney-in-fact with power to make health care decisions													
<input type="checkbox"/> Spouse													

MD/DO, PA, or NP Name (Print):	MD/DO, PA, or NP Signature and Date (Required):	Phone #:
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Signature of Patient, Parent of Minor, Guardian, Health Care Agent, Spouse, or Other Personal Representative
(Signature is required and must either be on this form or on file)

I agree that adequate information has been provided and significant thought has been given to life-prolonging measures. Treatment preferences have been expressed to the physician (MD/DO), physician assistant, or nurse practitioner. This document reflects those treatment preferences and indicates informed consent.

If signed by a patient representative, preferences expressed must reflect patient's wishes as best understood by that representative. Contact information for personal representative should be provided on the back of this form.

You are not required to sign this form to receive treatment.

Patient or Representative Name (print)	Patient or Representative Signature	Relationship (write "self" if patient)
--	-------------------------------------	--

SEND FORM WITH PATIENT/RESIDENT WHEN TRANSFERRED OR DISCHARGED

HIPAA PERMITS DISCLOSURE OF MOST TO OTHER HEALTH CARE PROFESSIONALS AS NECESSARY

Contact Information

Patient Representative:	Relationship:	Phone #:	Cell Phone #:
Health Care Professional Preparing Form:	Preparer Title:	Preferred Phone #:	Date Prepared:

Directions for Completing Form

Completing MOST

- MOST must be reviewed and prepared by a health care professional in consultation with the patient or patient representative.
- MOST is a medical order and must be signed and dated by a licensed physician (MD/DO), physician assistant, or nurse practitioner to be valid. **Be sure to document the basis for the order in the progress notes of the medical record.** Mode of communication (e.g., in person, by telephone, etc.) also should be documented.
- The signature of the patient or his/her representative is required; however, if the patient’s representative is not reasonably available to sign the original form, a copy of the completed form with the signature of the patient’s representative must be placed in the medical record and “on file” must be written in the appropriate signature field on the front of this form or in the review section below.
- Use of original form is required. **Be sure to send the original form with the patient.**
- MOST is part of advance care planning, which also may include a living will and health care power of attorney (HCPOA). If there is a HCPOA, living will, or other advance directive, a copy should be attached if available. **MOST may suspend any conflicting directions in a patient’s previously executed HCPOA, living will, or other advance directive.**
- **There is no requirement that a patient have a MOST.**
- MOST is recognized under N. C. G en. Stat. 90-21.17.

Reviewing MOST

Review of the MOST form is recommended when:

- The patient is admitted to and/or discharged from a health care facility; or
- There is a substantial change in the patient’s health status.

This MOST must be reviewed if:

- The patient’s treatment preferences change.

If MOST is revised or becomes invalid, draw a line through Sections A – E and write “VOID” in large letters.

Revocation of MOST

A patient with capacity or the patient’s representative (if the patient lacks capacity) can revoke the MOST at any time and request alternative treatment based on the known preferences of the patient or, if unknown, the patient’s best interests.

Review of MOST

Review Date	Reviewer and location of review	MD/DO, PA, or NP Signature (required)	Signature of patient or representative (preferred)	Outcome of Review
				<input type="checkbox"/> No Change <input type="checkbox"/> FORM VOIDED, new form completed <input type="checkbox"/> FORM VOIDED, no new form
				<input type="checkbox"/> No Change <input type="checkbox"/> FORM VOIDED, new form completed <input type="checkbox"/> FORM VOIDED, no new form
				<input type="checkbox"/> No Change <input type="checkbox"/> FORM VOIDED, new form completed <input type="checkbox"/> FORM VOIDED, no new form
				<input type="checkbox"/> No Change <input type="checkbox"/> FORM VOIDED, new form completed <input type="checkbox"/> FORM VOIDED, no new form
				<input type="checkbox"/> No Change <input type="checkbox"/> FORM VOIDED, new form completed <input type="checkbox"/> FORM VOIDED, no new form

SEND FORM WITH PATIENT/RESIDENT WHEN TRANSFERRED OR DISCHARGED

DO NOT ALTER THIS FORM!

CHAPTER 12

FORM 8: STATUTORY SHORT FORM POWER OF ATTORNEY

FORM 8 IS “STATUTORY SHORT FORM POWER OF ATTORNEY”

Form 8 is a standard form written into law by the state legislature for people to use. State law and the form recently were updated to follow the “Uniform Power Of Attorney Act”. “Statutory” means a form is found in a law to be used if wanted, and “Short Form” means the form is short and usually some laws help define terms or help with use of it.

FORM GIVES POWER TO “AGENT” SO THEY CAN HELP DO THINGS

A “Power of Attorney” lets a person called “Principal” share power with an “Agent” (also called “Attorney-in-Fact”). The Agent can be a trusted spouse, friend, or relative, and this form lets them access accounts, pay bills, sell property, sign contracts, and see records when a person is sick, busy or just away and wants help. To help explain at form end is “Important Information For Agent” to read. A person can still do things and overrule an Agent, and revoke by saying so and taking back forms and telling banks and others. In papers Agents should use titles, like “Bo Hill as Attorney-in-Fact for Ed Fox”. Some people modify a form to add words so 2 persons are agent at the same time but this can cause delay and legal issues. A form should be recorded in land records to affect land.

FORM IS DURABLE AND NOT DELAYED BUT EXCLUDES HEALTH

Forms are “Durable” since they work even if a person later falls ill or lacks capacity, and state law says this and a line in this book’s form says this by where an Agent is named. Unless a form says otherwise it is effective when signed, and is not a “springing” form that needs an event to trigger it. Unless a form says so, no power over health issues is given.

MOST SKIP SPECIAL POWERS OR LIMITS ON POWERS

The form has an “Additional Provisions And Exclusions” area for instructions, extra powers, or limits, but most skip the area as unneeded and to avoid legal problems.

FORM CAN BE MISUSED AND DUE TO RISK MANY SKIP USING

With this form an Agent has a “fiduciary duty” of due care and to act in “best interests” of a Principal, and duty to keep records and keep a Principal informed. But there still can be theft or misuse or just bad judgment by an Agent, causing huge losses which an Agent can’t pay back even if it was theft or similar. Many people skip this form as far too risky.

ONLY BASIC ACTIONS GOOD TO DO WITHOUT LAWYER'S HELP

Power of Attorney law is complex and makes some acts improper for an Agent to do, such as an Agent changing some trusts or large gifts especially to self or their family. Before using a form to do major or unusual things an Agent should get a lawyer's advice. Most use a form for safe basic things like to pay bills, see papers, or change investments.

OFTEN AGENT GETS "GENERAL" POWERS NOT "SPECIFIC" POWERS

The form early on has people initial which "General" powers an Agent is given, and usually people give most these to avoid some legal issues if not done (there is a line to jump to say all above powers are given). Later the form has a "Specific" power area covering more dangerous and rarely wanted powers, and most skip giving these powers.

CAN SAY IF LATER NEEDED IF AGENT SHOULD BE GUARDIAN

In rare cases a person due to big physical or mental health problems may need a "guardian of the person" to manage their life or "guardian of the estate" to manage finances. In the form is a spot to say if a person wants the Agent to be guardian too if needed (this avoids a court hearing to pick someone). Most people agree or skip this.

HAVING AGENT LATER DO AFFIDAVIT MAY HELP

Getting banks, investment firms, and others to trust and follow a Power of Attorney and let the Agent control money and property has for years been a legal fight. Later the Agent maybe should use an "Affidavit" to say under oath says they still have power can help, and this can be found by a web search for "N. C. General Statute § 32C-3-302 (Agent's certification)". Also, some people print and get notarized several Power of Attorney forms to have several "original" forms to give out. And as said below, some people have 2 witnesses sign the form to make it seem more proper to banks and others.

TO COMPLETE FORM SIGN BEFORE NOTARY

The form to be valid must be signed and dated by a person before a notary who then notarizes it. The person doing a form should be 18 and of sound mind. Once done the form usually is given to the Agent who then gives copies out as needed, or some keep the form until absolutely needed. Note, most other states require 2 witnesses sign so some people add a couple witness lines and do this too, to make a form seem more official and likely to be followed especially in other states where it might be needed.

**FORM 8:
STATUTORY SHORT FORM POWER OF ATTORNEY**

NORTH CAROLINA STATUTORY SHORT FORM POWER OF ATTORNEY

NOTICE: THE POWERS GRANTED BY THIS DOCUMENT ARE BROAD AND SWEEPING. THEY ARE DEFINED IN CHAPTER 32C OF THE NORTH CAROLINA GENERAL STATUTES, WHICH EXPRESSLY PERMITS THE USE OF ANY OTHER OR DIFFERENT FORM OF POWER OF ATTORNEY DESIRED BY THE PARTIES CONCERNED.

IMPORTANT INFORMATION

This power of attorney authorizes another person (your agent) to make decisions concerning your property for you (the principal). Your agent will be able to make decisions and act with respect to your property (including your money) whether or not you are able to act for yourself. The meaning of authority over subjects listed on this form is explained in the North Carolina Uniform Power of Attorney Act.

This power of attorney does **not** authorize the agent to make health-care decisions for you.

You should select someone you trust to serve as your agent. Unless you specify otherwise, generally the agent's authority will continue until you die or revoke the power of attorney or the agent resigns or is unable to act for you.

Your agent is entitled to reasonable compensation unless you state otherwise in the Additional Provisions and Exclusions.

This form provides for designation of one agent, a successor agent, and a second successor agent. If you wish to name more than one agent, successor agent, and second successor agent, you may name a coagent, successor coagent, or second successor coagent in the Additional Provisions and Exclusions. Coagents, successor coagents, or second successor coagents are not required to act together unless you include that requirement in the Additional Provisions and Exclusions.

If your agent is unable or unwilling to act for you, your power of attorney will end unless you have named a successor agent. You may also name a second successor agent.

This power of attorney becomes effective immediately.

If you have questions about the power of attorney or the authority you are granting to your agent, you should seek legal advice before signing this form.

DESIGNATION OF AGENT

I, _____, name the following person as my agent:
(Name of Principal)

Name of Agent: _____

This power of attorney is durable and shall not be affected by my subsequent incapacity or mental incompetence or by passage or lapse of time, unless specified otherwise in this document.

DESIGNATION OF SUCCESSOR AGENT(S) (OPTIONAL)

If my agent is unable or unwilling to act for me, I name as my successor agent:

Name of Successor Agent: _____

If my successor agent is unable or unwilling to act, I name as second successor agent:

Name of Second Successor Agent: _____

INITIAL below if you want to give an agent the power to name a successor agent.

I give to my acting agent the full power to appoint another to act as my agent, and full power to revoke such appointment, if no agent named by me above is willing or able to act.

GRANT OF GENERAL AUTHORITY

I grant my agent and any successor agent general authority to act for me with respect to the following subjects as defined in the North Carolina Uniform Power of Attorney Act, Chapter 32C of the General Statutes:

(INITIAL each subject you want to include in the agent's general authority. If you wish to grant general authority over all the subjects you may initial just "All Preceding Subjects")

Real Property

Tangible Personal Property

Stocks and Bonds

Commodities and Options

Banks and Other Financial Institutions

Operation of Entity

Insurance and Annuities

Estates, Trusts, and Other Beneficial Interests

Claims and Litigation

Personal and Family Maintenance

Benefits from Governmental Programs or Civil or Military Service

Retirement Plans

Taxes

All Preceding Subjects

GRANT OF SPECIFIC AUTHORITY (OPTIONAL)

My agent MAY NOT do any of the following specific acts for me UNLESS I have INITIALED the specific authority listed below:

(CAUTION: Granting any of the following will give your agent the authority to take actions that could significantly reduce your property or change how your property is distributed at your death. INITIAL ONLY the specific authority you WANT to give your agent.)

- Make a gift, subject to the limitations provided in G.S. 32C-2-217
- Create or change rights of survivorship
- Create or change a beneficiary designation
- Authorize another person to use the authority granted under this power of attorney
- Waive my right to be a beneficiary of a joint and survivor annuity, including a survivor benefit under a retirement plan
- Exercise fiduciary powers that I have authority to delegate
- Disclaim or refuse an interest in property, including a power of appointment
- Access the content of electronic communications

EXERCISE OF SPECIFIC AUTHORITY IN FAVOR OF AGENT (OPTIONAL)

UNLESS INITIALED, my agent MAY NOT exercise any of the grants of specific authority initialed above in favor of the agent or an individual to whom the agent owes a legal obligation of support.

ADDITIONAL PROVISIONS AND EXCLUSIONS (OPTIONAL)

EFFECTIVE DATE

This power of attorney is effective immediately.

NOMINATION OF GUARDIAN (OPTIONAL)

INITIAL below ONLY if you WANT your acting agent to be your Guardian.

If it becomes necessary for a court to appoint a guardian of my estate or a general guardian, I nominate my agent acting under this power of attorney to be the guardian to serve without bond or other security.

RELIANCE ON THIS POWER OF ATTORNEY

Any person, including my agent, may rely upon the validity of this power of attorney or a copy of it unless that person knows it has terminated or is invalid.

MEANING AND EFFECT

The meaning and effect of this power of attorney shall for all purposes be determined by the law of the State of North Carolina.

SIGNATURE AND ACKNOWLEDGEMENT

Your Signature

Date

Your Name Printed

State of _____, County of _____

I certify that the following person personally appeared before me this day, acknowledging to me that he or she signed the foregoing document: _____.

Date: _____

Signature of Notary Public

(Official Seal)

_____, Notary Public
Printed or typed name

My commission expires: _____

IMPORTANT INFORMATION FOR AGENT

Agent's Duties

When you accept the authority granted under this power of attorney, a special legal relationship is created between you and the principal. This relationship imposes upon you legal duties that continue until you resign or your authority is terminated or the power of attorney is terminated or revoked. You must:

1. Do what you know the principal reasonably expects you to do with the principal's property or, if you do not know the principal's expectations, act in the principal's best interest;
2. Act in good faith;
3. Do nothing beyond the authority granted in this power of attorney; and
4. Disclose your identity as an agent whenever you act for the principal by writing or printing the name of the principal and signing your own name as "agent" in the following manner:
(Principal's Name) by (Your Signature) as Agent.

Unless the Additional Provisions and Exclusions in this power of attorney state otherwise, you must also:

1. Act loyally for the principal's benefit;
2. Avoid conflicts that would impair your ability to act in the principal's best interest;
3. Act with care, competence, and diligence;
4. Keep a record of all receipts, disbursements, and transactions made on behalf of principal;
5. Cooperate with any person that has authority to make health care decisions for the principal to do what you know the principal reasonably expects, or if you do not know the principal's expectations, to act in the principal's best interest;
6. Attempt to preserve the principal's estate plan if you know the plan and preserving the plan is consistent with the principal's best interest; and
7. Account to the principal (or a person designated by the principal (if any)) in the Additional Provisions and Exclusions.

Termination of Agent's Authority

You must stop acting on behalf of the principal if you learn of any event that terminated or revoked this power of attorney or your authority under this power of attorney. Events that terminate a power of attorney or your authority to act under a power of attorney include:

1. Death of the principal;
2. The principal's revocation of the power of attorney or the termination of your authority;
3. The occurrence of a termination event stated in the power of attorney;
4. The purpose of the power of attorney is fully accomplished;
5. If you are married to the principal, your divorce from the principal, unless the Additional Provisions and Exclusions in this power of attorney state that your divorce from the principal will not terminate your authority; or
6. A guardian of the principal's estate or the principal's general guardian revokes the power of attorney or terminates your authority.

Liability of Agent

The meaning of the authority granted to you is defined in the North Carolina Uniform Power of Attorney Act as set forth in Chapter 32C of the North Carolina General Statutes. If you violate the North Carolina Uniform Power of Attorney Act or act outside the authority granted, you may be liable for any damages caused by your violation.

If there is anything about this document or your duties that you do not understand, you should seek legal advice.

CHAPTER 13

FORM 9: AUTHORIZATION TO CONSENT TO HEALTH CARE FOR MINOR

FORM 9 CONCERNS GIVING POWER OVER CHILD'S HEALTH CARE

Form 9, "Authorization To Consent To Health Care For Minor" form, is a standard form by the legislature, and it concerns giving power over child's health care.

FORM LETS PARENT GIVE POWER OVER CHILD'S HEALTH CARE

This form lets a parent (or similar person with power over a minor child) give power over the child's health care to another person. This form lets another person control and consent to a child's emergency and normal health care, and this form can avoid any dangerous delay in treatment or need to contact a parent. This form is often used if a child is away from parents for travel, visit with relatives or friends, school or camp, health care, parent's incarceration, or parent work travel or vacation. A parent retains power and can overrule the other person anytime, and a parent can revoke the form by saying so to the person and taking back the form (and then doctors and others are usually told too). Instead of this form some have a court do a "temporary custody" change or temporary guardianship to give more power, especially for schooling or longer stays. Military persons can use a "Military Power of Attorney" to give broad power over a child.

FINISH FORM BY CUSTODIAL PARENT SIGNING BEFORE NOTARY

To be valid the form must be signed by a parent with legal custody before a notary. Many parents modify the form to have 2 parents with legal custody sign, which slightly increases the chance doctors, schools and others will follow the form.

**FORM 9:
AUTHORIZATION TO CONSENT TO
HEALTH CARE FOR MINOR**

**AUTHORIZATION TO CONSENT
TO HEALTH CARE FOR MINOR**

I, _____, of _____ County, North Carolina, am the custodial parent having legal custody of _____, a minor child, age _____, born _____, 20__ . I authorize _____, an adult in whose care the minor child has been entrusted, and who resides at _____, to do any acts which may be necessary or proper to provide for the health care of the minor child, including, but not limited to, the power (i) to provide for such health care at any hospital or other institution, or the employing of any physician, dentist, nurse, or other person whose services may be needed for such health care, and (ii) to consent to and authorize any health care, including administration of anesthesia, X-ray examination, performance of operations, and other procedures by physicians, dentists, and other medical personnel except the withholding or withdrawal of life sustaining procedures.

By signing here, I indicate that I have the understanding and capacity to communicate health care decisions and that I am fully informed as to the contents of this document and understand the full import of this grant of powers to the agent named herein.

Custodial Parent

(SEAL)

Date

STATE OF NORTH CAROLINA

COUNTY OF _____

On this ___ day of _____, 20__, personally appeared before me the named _____, to me known and known to me to be the person described in and who executed the foregoing instrument and he (or she) acknowledges that he (or she) executed the same and being duly sworn by me, made oath that the statements in the foregoing instrument are true.

(OFFICIAL SEAL)

Notary Public
My Commission Expires: _____

APPENDIX A: HOW TO DOWNLOAD LEGAL FORMS

TO GET FORMS FREE THEY CAN USE, PEOPLE CAN (1) DOWNLOAD FORMS FREE AT WWW.DAVENPORTPRESS.ORG, OR (2) PHOTOCOPY BOOK PAGES.

BOOK BUYERS ARE AUTHORIZED TO DOWNLOAD OR COPY FORMS FOR THEIR OWN USE AND THEIR FAMILY'S USE.

PLEASE EMAIL ANY COMMENTS TO DAVENPORTPRESS@GMAIL.COM, HOWEVER SPECIFIC LEGAL QUESTIONS CANNOT BE ANSWERED.

APPENDIX B:

SAMPLE FILLED OUT LEGAL FORMS

The rest of this book has sample filled out legal forms including sample Wills.

All forms in this book can be filled out by pen or marker (most people do this), or by using a computer or typewriter to complete forms. Being neat is not legally required.

All signatures and dates by signatures should be handwritten with permanent pen or marker and not done by a computer or typewriter.

A Will and specific gifts in a Will are legally OK so long as what a person probably meant can be determined by people who knew him or her.

If a person needs more space they can use a computer to add more pages or lines.

If a persons wants to do more gifts they can “copy and paste” as many copies of gifting language as they want.

People can add words to blanks spots almost any way. Some people use a pen or marker, some use a computer but do so roughly with underlining and gaps left, and some use a computer to add words neatly with underlining removed.

Any of these is fine:

"I appoint John Doe as Agent" ,

"I appoint John Doe as Agent",

“I appoint John Doe as Agent”.

**SAMPLE FILLED OUT
FORM 1:
LAST WILL AND TESTAMENT (STANDARD)**

LAST WILL AND TESTAMENT.

I, Henry James Ford of Mecklenburg County, North Carolina, hereby make, declare, and publish this as my Last Will and Testament (called here my "Will"), and I do hereby revoke any Wills and Codicils earlier made by me.

1. GIFTS. I give in this section these specific gifts and general gifts including of money to the following beneficiaries but only if they survive me.

I give Bronze Roman Lamp to Anne Kilby .

I give big oak table to Mary J. Kix but if she does not survive then to Greta Kix.

I give \$500 to Loretta Marsha Switt in the hope she will help her 3 year old daughter Megan Kara Smith .

I give 63 Ivy Road, Lundy, NC land and buildings and fixtures to Greta Olivia Fox.

I give 1.5 carat diamond to Ruth Ann Jones .

I give \$781.35 to Wanda Kay Zinski .

I give Irish engraved ring to Harriet Rush Smith.

I give all jewelry not given above to Kay Mary Pidoski.

I give UBank account #8923 to Joy Karen Rundy an old college friend .

I give 1998 Ford truck to John Hatcher my cousin but if he doesn't survive me then this goes to his wife Sherry.

I give a total of \$5,000 to to be shared by Brian Oscar Peterson, Michael Paul Peterson, and Mary Rebecca Hart .

I give a total of \$800 to Beth Smith and Frank Smith.

I give Wells Fargo acct ending in #8923 to Lawrence Deer .

I give \$1,000 to that charity food kitchen on Smith Avenue in Giddy, NC.

I give \$500 to Fishy Smith my fishing buddy hoping he will buy a big boat.

I give \$200 to Mary Nixon .

I give all cars and trucks over 10 years old I own to Victor Perez my mechanic .

I give \$702.21 to Brenda Mary Hill but if she fails to survive me then to her brother William Matthew Hill .

I give \$1,000 to the United States Cancer Society .

I give \$5,000 in total to my cousin David Krupp's children.

I give \$6,000 in total to my cousin Carol Brown's children.

I give \$500 each to each of my grandchildren .

I give _____ to _____.

2. RESIDUE. I give the residue and remainder of my property and estate not already transferred by the preceding provisions of this Will, of any kind and nature and wherever located, whether now owned or later acquired, as follows:

a) to Pamela Sue Ford my wife **only if they survive me** with those of these persons who survive taking the share of non-surviving persons, and

b) if none of these just named persons do survive I give this to Ron Ford, Tina Yost, and Vera Hill who are my children **or their lineal descendants** which descendants shall take the share of their non-surviving relative.

3. ADMINISTRATION. I name and appoint Pamela Sue Ford my wife as **executor** of

my Will and of my estate. I direct unsupervised administration of my Will and estate, and administration may be as informal as my executor chooses.

4. MISCELLANEOUS. The following applies to this Will, my estate, and generally.

Survival. For any Will gift a beneficiary must survive to get a gift, and survival is an absolute condition and anti-lapse laws or similar have no effect, but an alternative beneficiary may take a gift for non-surviving persons (including “lineal descendants”).

Survivors Take Joint Gift. For gifts naming several beneficiaries if any are deceased their share goes to surviving beneficiaries in proportion to their shares, including with the residue, but not if there is an alternate beneficiary. If joint beneficiaries disagree on use of property the executor may sell it and give cash.

Gift Order. Priority of Will gifts of the same type is based on order they written.

Gift. Words “give” and “gift” also mean devise, bequest, grant, legacy or similar.

Informal. I request unsupervised administration of my Will and estate and administration in as informal a manner as possible including non-probate procedures.

Descendants. A gift including the residue to “lineal descendants” is “per stirpes”.

Meaning. Plural, singular, or gender meanings do not limit this Will such as “they”.

Unfilled Will. No unfilled or blank part is a mistake including in the residue clause.

Omitted Persons. A failure to gift to any family including a child is not a mistake.

Residue. The residue includes lapsed or failed gifts, inheritances owned, insurance paid to estate, and property with power of appointment or testamentary disposition.

Paying Debts. Some debts must by law be paid, and my executor has power to pay debts in time and manner and using property or money from my estate they find best.

Mortgage or Lien. I direct no debt with an encumbrance such as mortgage or lien should be paid, and if paid for some reason contribution is owed my estate and others.

Events During Life. No gift or other transfer made during life reduces or offsets any gift or part of this Will, unless expressly called a “loan” or “advancement”.

Items No Longer Held. A gift of property including real property that is no longer

owned has no effect and a Will gift of such lapses without ademption or replacement.

Powers. Any executor or guardian serving under this Will or otherwise: a) shall qualify and serve without bond, surety, or other security, b) may act independently as fully as I could and not have to file reports or involve a court or others like do inventory, accounting, or request approval, c) shall have all power or authority that may be given by law, and d) is given fullest discretion and power allowed including may without any other action or court approval sell, keep, lease, or exchange any property with no liability for decrease in value, settle claims for and against the estate, pay debts, and use a power of sale over real and other property. I without limitation grant any executor all powers in North Carolina General Statutes § 32-27. Executor also means “personal representative”.

IN WITNESS WHEREOF, I, Henry James Ford, as testator, sign my name below to this instrument, this 2nd day of May, 2018, and do declare that I sign this instrument as my Last Will and Testament, that I sign it willingly while under no constraint or undue influence and as my free and voluntary act for purposes expressed therein, and that I am at least 18 years old and of sound and disposing mind and memory.

Henry James Ford

Testator

We, Olivia Joy Pawlenty and Roy Felix Pawlenty, the witnesses, do say and declare that the above-named testator signed and executed this instrument as his or her Last Will and Testament and signified this and signed it willingly, and that each of us in the presence and hearing of the testator and each other hereby signs this Will as witness to the testator’s signing, and that to the best of our knowledge the testator is at least 18 years old, of sound and disposing mind and memory, and under no constraint or undue influence.

Olivia Joy Pawlenty

Witness

Roy Felix Pawlenty

Witness

**SAMPLE FILLED OUT
FORM 2:
LAST WILL AND TESTAMENT (GUARDIAN)**

LAST WILL AND TESTAMENT

I, Ruth Beth Kent of Robeson County, North Carolina, hereby make, declare, and publish this as my Last Will and Testament (called here my "Will"), and I do hereby revoke any Wills and Codicils earlier made by me.

1. GIFTS. I give in this section these specific gifts and general gifts including of money to the following beneficiaries but only if they survive me.

I give a total of \$4,000 to: 50% to Abraham Daniel Walker, 40% to Amy Ann Hope, and 10% to Jennifer Kim Beaufort.

I give \$3,300 and my cat Bob to Sara Ham who I trust to care for Bob .

I give 1987 Ford Truck and any other vehicles I own of any type to Reginald William Porter my nephew.

I give \$800 to Greg Best but if he fails to survive then his wife Jo Best.

I give \$100 to each of my first cousins .

I give \$500 to the UNICEF charity and \$500 to my church St. Ann's.

I give \$500 to Sue Perez my nurse but if she fails to survive then her kids.

I give \$700 to Kim Fox but if they fail to survive me then her son Tom.

I give \$2,000 total to Janet Wilkins, Miranda Britom, Cindy Spagor, Diana Linda Craigtown, and Teresa Germann.

I give \$7,002.21 to Brenda Mary Hill but if she fails to survive me then to her brother William Matthew Hill .

I give \$10,000 to the United States Cancer Society

I give \$5,000 in total to my friend Amy Shuster's children

I give \$6,000 in total to my cousin Carol Brown's children

I give \$500 each to each of my grandchildren.

2. RESIDUE. I give the residue and remainder of my property and estate not already transferred by the preceding provisions of this Will, of any kind and nature and wherever located, whether now owned or later acquired, as follows:

a) to John Rufus Kent my husband **only if they survive me** with those of these persons who survive taking the share of non-surviving persons, and

b) if none of these just named persons do survive I give this to Kim Hill my sister, Liza King my aunt, and Lori Swan a friend **or their lineal descendants** which descendants shall take the share of their non-surviving relative.

3. ADMINISTRATION. I name and appoint John Rufus Kent my husband as **executor** of my Will and of my estate. I direct unsupervised administration of my Will and estate, and administration in as informal a manner as possible.

4. GUARDIANS. If a child of mine has not reached age 18 then I name and appoint Kim Eve Hill my sister to be **guardian of the person** of such child. I also name and appoint Kim Eve Hill my sister as **guardian of the estate** and property of such child or any other person under age 18 who receive or possess money or property.

5. MISCELLANEOUS. The following applies to this Will, my estate, and generally.

Survival. For any Will gift a beneficiary must survive to get a gift, and survival is an absolute condition and anti-lapse laws or similar have no effect, but an alternative beneficiary may take a gift for non-surviving persons (including “lineal descendants”).

Survivors Take Joint Gift. For gifts naming several beneficiaries if any are deceased their share goes to surviving beneficiaries in proportion to their shares, including with the residue, but not if there is an alternate beneficiary. If joint beneficiaries disagree on use of property the executor may sell it and give cash.

Gift Order. Priority of Will gifts of the same type is based on order they written.

Gift. Words “give” and “gift” also mean devise, bequest, grant, legacy or similar.

Informal. I request unsupervised administration of my Will and estate and administration in as informal a manner as possible including non-probate procedures.

Descendants. A gift including the residue to “lineal descendants” is “per stirpes”.

Meaning. Plural, singular, or gender meanings do not limit this Will such as “they”.

Unfilled Will. No unfilled or blank part is a mistake including in the residue clause.

Omitted Persons. A failure to gift to any family including a child is not a mistake.

Residue. The residue includes lapsed or failed gifts, inheritances owned, insurance paid to estate, and property with power of appointment or testamentary disposition.

Paying Debts. Some debts must by law be paid, and my executor has power to pay debts in time and manner and using property or money from my estate they find best.

Mortgage or Lien. I direct no debt with an encumbrance such as mortgage or lien should be paid, and if paid for some reason contribution is owed my estate and others.

Events During Life. No gift or other transfer made during life reduces or offsets any gift or part of this Will, unless expressly called a “loan” or “advancement”.

Items No Longer Held. A gift of property including real property that is no longer owned has no effect and a Will gift of such lapses without ademption or replacement.

Executor and Guardians. Any executor or guardian serving under this Will or otherwise: a) shall qualify and serve without bond, surety, or other security, b) may act independently as fully as I could and not have to file reports or involve a court or others like do inventory, accounting, or request approval, c) shall have all power or authority that may be given by law, and d) is given fullest discretion and power allowed including may without any other action or court approval sell, keep, lease, or exchange any property with no liability for decrease in value, settle claims for and against the estate, pay debts, and use a power of sale over real and other property. I without limitation grant any executor all powers set forth in North Carolina General Statutes § 32-27. Executor also means “personal representative”.

IN WITNESS WHEREOF, I, Ruth Beth Kent , as testator, sign my name below to this instrument, this 1st day of May, 2017, and do declare that I sign this instrument as my Last Will and Testament, that I sign it willingly while under no constraint or undue influence and as my free and voluntary act for purposes expressed therein, and that I am at least 18 years of age and of sound and disposing mind and memory.

Ruth Beth Kent
Testator

We, Lucy Ann Pamway and Pam Ann Rogers, the witnesses, do say and declare that the above-named testator signed and executed this instrument as his or her Last Will and Testament and signified this and signed it willingly, and that each of us in the presence and hearing of the testator and each other hereby signs this Will as witness to the testator's signing, and that to the best of our knowledge the testator is at least 18 years old, of sound and disposing mind and memory, and under no constraint or undue influence.

Lucy Ann Pamway
Witness

Pam Ann Rogers
Witness

**SAMPLE FILLED OUT
FORM 3:
SELF-PROVING AFFIDAVIT**

SELF-PROVING AFFIDAVIT

STATE OF NORTH CAROLINA

COUNTY/CITY OF Robeson

Before me, the undersigned authority, on this day personally appeared Ruth Beth Kent, Lucy Ann Pamway and Pam Ann Rogers, known to me to be the testator and the witnesses, respectively, whose names are signed to the attached or foregoing instrument and, all of these persons being by me first duly sworn. The testator, declared to me and to the witnesses in my presence: That said instrument is his last will; that he had willingly signed or directed another to sign the same for him, and executed it in the presence of said witnesses as his free and voluntary act for the purposes therein expressed; or, that the testator signified that the instrument was his instrument by acknowledging to them his signature previously affixed thereto.

The said witnesses stated before me that the foregoing will was executed and acknowledged by the testator as his last will in the presence of said witnesses who, in his presence and at his request, subscribed their names thereto as attesting witnesses and that the testator, at the time of the execution of said will, was over the age of 18 years and of sound and disposing mind and memory.

Ruth Beth Kent

Testator

Lucy Ann Pamway

Witness

Pam Ann Rogers

Witness

Subscribed, sworn and acknowledged before me by Ruth Beth Kent the testator, subscribed and sworn before me by Lucy Ann Pamway and Pam Ann Rogers witnesses, this 1st day of May, A.D. 2018.

(SEAL)

(SIGNED) Peggy B. Estrada

(OFFICIAL CAPACITY OF OFFICER)



**SAMPLE FILED OUT
FORM 4:
TANGIBLE PERSONAL PROPERTY GIFT LIST**

TANGIBLE PERSONAL PROPERTY GIFT LIST

I understand this gift list may not be legally enforceable but I request and hope people will voluntarily follow this list.

This gift list is for tangible personal property, and other things will be ignored so not intangible property like accounts, not land or buildings, and not money.

No gift is made if no recipient of the gift survived me, and for gifts to multiple recipients shares of non-survivors go to other recipients of the gift.

Several gift lists may be done and more recent controls if any conflict.

No gift list should be followed if not found within 60 days of my death.

PROPERTY ITEMS GIFTED

NAMES OF RECIPIENTS

<u>1998 Ford Truck</u>	to	<u>Samantha Bell</u>
<u>1.3 carat diamond ring</u>	to	<u>Abigail Sue Reed</u>
<u>Italian silver jewelry</u>	to	<u>Samantha Bell</u>
<u>14 ft boat and kayak with paddles</u>	to	<u>L. Wheeler</u>
<u>Ghana-style bench and big Telescope</u>	to	<u>Rebecca Stewart</u>
<u>glass table, telescope, all umbrellas</u>	to	<u>Rebecca Stewart</u>
<u>18 wood cups, oak platter, oak vase</u>	to	<u>Mary and Cindy Lott</u>
<u>my wedding dress and shoes</u>	to	<u>Mary Lott</u>
<u>chainsaw with serial no. 89930484421</u>	to	<u>Brian Kelly</u>
<u>antique lanterns and repair kits for them</u>	to	<u>Jason Brooks and Kevin Brooks</u>
<u>oak lamp usually kept on porch</u>	to	<u>Sue Ditcher waitress at Jo's Cafe</u>
<u>all sewing machines and fabrics</u>	to	<u>Mary Kay Poppler</u>
<u>rocking chair bought in Oregon</u>	to	<u>Don Schmidt my boat mechanic</u>
<u>all fishing poles and fishing equipment</u>	to	<u>"Buffalo" Hoss a fishing buddy</u>
<u>shot glass collection in 8 glass cases</u>	to	<u>Millard Filmore</u>
<u>my cat Garfield and his stuff</u>	to	<u>Mildred Huffstader</u>
<u>broken Jeep and 2 broken Mini-vans</u>	to	<u>Millard Filmore</u>
<u>all paintings and sculptures</u>	to	<u>Karen Ann Lowell</u>

SIGNED: Mary Sue Dent

DATE: 8-23-2016

**SAMPLE FILLED OUT
FORM 5:
HEALTH CARE POWER OF ATTORNEY**

HEALTH CARE POWER OF ATTORNEY

NOTE: YOU SHOULD USE THIS DOCUMENT TO NAME A PERSON AS YOUR HEALTH CARE AGENT IF YOU ARE COMFORTABLE GIVING THAT PERSON BROAD AND SWEEPING POWERS TO MAKE HEALTH CARE DECISIONS FOR YOU. THERE IS NO LEGAL REQUIREMENT THAT ANYONE EXECUTE A HEALTH CARE POWER OF ATTORNEY.

***EXPLANATION:** You have the right to name someone to make health care decisions for you when you cannot make or communicate those decisions. This form may be used to create a health care power of attorney, and meets the requirements of North Carolina law. However, you are not required to use this form, and North Carolina law allows the use of other forms that meet certain requirements. If you prepare your own health care power of attorney, you should be very careful to make sure it is consistent with North Carolina law.*

*This document gives the person you designate as your health care agent **broad powers** to make health care decisions for you when you cannot make the decision yourself or cannot communicate your decision to other people. You should discuss your wishes concerning life-prolonging measures, mental health treatment, and other health care decisions with your health care agent. Except to the extent that you express specific limitations or restrictions in this form, your health care agent may make any health care decision you could make yourself.*

This form does not impose a duty on your health care agent to exercise granted powers, but when a power is exercised, your health care agent will be obligated to use due care to act in your best interests and in accordance with this document.

This Health Care Power of Attorney form is intended to be valid in any jurisdiction in which it is presented, but places outside North Carolina may impose requirements that this form does not meet.

*If you want to use this form, you must complete it, sign it, and have your signature witnessed by two qualified witnesses and proved by a notary public. Follow the instructions about which choices you can initial very carefully. **Do not sign this form until** two witnesses and a notary public are present to watch you sign it. You then should give a copy to your health care agent and to any alternates you name. You should consider filing it with the Advance Health Care Directive Registry maintained by the North Carolina Secretary of State: <http://www.nclifelinks.org/ahcdr/>*

1. Designation of Health Care Agent.

I, **Joan Karen Peterson**, being of sound mind, hereby appoint the following person(s) to serve as my health care agent(s) to act for me and in my name (in any way I could act in person) to make health care decisions for me as authorized in this document. My designated health care agent(s) shall serve alone, in the order named [naming only one person is common].

A. Name: **Lily Sue Peterson**
Home Address: **83 Main St.**
Maplewood, NC 27007

Work Phone: **919-555-3884**
Cell Phone: _____
Email: **m8303@aol.com**

B. Name: _____
Home Address: _____

Work Phone: _____
Cell Phone: _____
Email: _____

C. Name: _____

Work Phone: _____

Home Address: _____

Cell Phone: _____
Email: _____

Any successor health care agent designated shall be vested with the same power and duties as if originally named as my health care agent, and shall serve any time his or her predecessor is not reasonably available or is unwilling or unable to serve in that capacity.

2. Effectiveness of Appointment.

My designation of a health care agent expires only when I revoke it. Absent revocation, the authority granted in this document shall become effective when and if one of the physician(s) listed below determines that I lack capacity to make or communicate decisions relating to my health care, and will continue in effect during that incapacity, or until my death, except if I authorize my health care agent to exercise my rights with respect to anatomical gifts, autopsy, or disposition of my remains, this authority will continue after my death to the extent necessary to exercise that authority.

1. _____ (Physician) 2. _____ (Physician)

If I have not designated a physician, or no physician(s) named above is reasonably available, the determination that I lack capacity to make or communicate decisions relating to my health care shall be made by my attending physician.

3. Revocation.

Any time while I am competent, I may revoke this power of attorney in a writing I sign or by communicating my intent to revoke, in any clear and consistent manner, to my health care agent or my health care provider.

4. General Statement of Authority Granted.

Subject to any restrictions set forth in Section 5 below, I grant to my health care agent full power and authority to make and carry out all health care decisions for me. These decisions include, but are not limited to:

- A. Requesting, reviewing, and receiving any information, verbal or written, regarding my physical or mental health, including, but not limited to, medical and hospital records, and to consent to the disclosure of this information.
- B. Employing or discharging my health care providers.
- C. Consenting to and authorizing my admission to and discharge from a hospital, nursing or convalescent home, hospice, long-term care facility, or other health care facility.
- D. Consenting to and authorizing my admission to and retention in a facility for the care or treatment of mental illness.
- E. Consenting to and authorizing the administration of medications for mental health treatment and electroconvulsive treatment (ECT) commonly referred to as "shock treatment."
- F. Giving consent for, withdrawing consent for, or withholding consent for, X-ray, anesthesia, medication, surgery, and all other diagnostic and treatment procedures ordered by or under the authorization of a licensed physician, dentist, podiatrist, or other health care provider. This authorization specifically includes the power to consent to measures for relief of pain.
- G. Authorizing the withholding or withdrawal of life-prolonging measures.
- H. Providing my medical information at the request of any individual acting as my attorney-in-fact

under a durable power of attorney or as a Trustee or successor Trustee under any Trust Agreement of which I am a Grantor or Trustee, or at the request of any other individual whom my health care agent believes should have such information. I desire that such information be provided whenever it would expedite the prompt and proper handling of my affairs or the affairs of any person or entity for which I have some responsibility. In addition, I authorize my health care agent to take any and all legal steps necessary to ensure compliance with my instructions providing access to my protected health information. Such steps shall include resorting to any and all legal procedures in and out of courts as may be necessary to enforce my rights under the law and shall include attempting to recover attorneys' fees against anyone who does not comply with this health care power of attorney.

- I. To the extent I have not already made valid and enforceable arrangements during my lifetime that have not been revoked, exercising any right I may have to authorize an autopsy or direct the disposition of my remains.
- J. Taking any lawful actions that may be necessary to carry out these decisions, including, but not limited to: (i) signing, executing, delivering, and acknowledging any agreement, release, authorization, or other document that may be necessary, desirable, convenient, or proper in order to exercise and carry out any of these powers; (ii) granting releases of liability to medical providers or others; and (iii) incurring reasonable costs on my behalf related to exercising these powers, provided that this health care power of attorney shall not give my health care agent general authority over my property or financial affairs.

5. Special Provisions and Limitations.

(Notice: The authority granted in this document is intended to be as broad as possible so that your health care agent will have authority to make any decisions you could make to obtain or terminate any type of health care treatment or service. If you wish to limit the scope of your health care agent's powers, you may do so in this section. **If none of the following are initialed, there will be no special limitations on your agent's authority.**)

- A. Limitations about Artificial Nutrition or Hydration: In exercising the authority to make health care decisions on my behalf, my health care agent:

(Initial)

shall NOT have the authority to withhold artificial nutrition (such as through tubes) OR may exercise that authority only in accordance with the following special provisions:

(Initial)

shall NOT have the authority to withhold artificial hydration (such as through tubes) OR may exercise that authority only in accordance with the following special provisions:

NOTE: If you initial either block but do not insert any special provisions, your health care agent shall have NO AUTHORITY to withhold artificial nutrition or hydration.

(Initial)

- B. Limitations Concerning Health Care Decisions. In exercising the authority to make health care decisions on my behalf, the authority of my health care agent is subject to the following special provisions: (Here you may include any

(Initial)

D. Advance Instruction for Mental Health Treatment. (Notice: This health care power of attorney may incorporate or be combined with an advance instruction for mental health treatment, executed in accordance with Part 2 of Article 3 of Chapter 122C of the General Statutes, which you may use to state your instructions regarding mental health treatment in the event you lack capacity to make or communicate mental health treatment decisions. Because your health care agent's decisions must be consistent with any statements you have expressed in an advance instruction, you should indicate here whether you have executed an advance instruction for mental health treatment):

NOTE: DO NOT initial unless you insert a limitation.

(Initial)

E. Autopsy and Disposition of Remains. In exercising authority to make decisions regarding autopsy and **disposition of remains on my behalf**, the authority of my health care agent is subject to the following specific provisions and limitations. (Here you may include any specific limitations you deem appropriate such as: limiting the grant of authority and the scope of authority, or instructions regarding burial or cremation):

NOTE: DO NOT initial unless you insert a limitation.

6. Organ Donation.

To the extent I have not already made valid and enforceable arrangements during my lifetime that have not been revoked, my health care agent may exercise any right I may have to:

J. K. P.

(Initial)

donate any needed organs or parts; or

(Initial)

donate only the following organs or parts:

NOTE: DO NOT INITIAL BOTH BLOCKS ABOVE.

(Initial)

donate my body for anatomical study if needed.

(Initial)

In exercising the authority to make donations, my health care agent is subject to the following special provisions and limitations: (Here you may include any specific limitations you deem appropriate such as: limiting the grant of authority and the scope of authority, or instructions regarding gifts of the body or body parts.)

NOTE: DO NOT initial unless you insert a limitation.

NOTE: NO AUTHORITY FOR ORGAN DONATION IS GRANTED IN THIS INSTRUMENT WITHOUT YOUR INITIALS.

7. Guardianship Provision.

If it becomes necessary for a court to appoint a guardian of my person, I nominate the persons designated in Section 1, in the order named, to be the guardian of my person, to serve without bond or security. The guardian shall act consistently with G.S. 35A-1201(a)(5).

8. Reliance of Third Parties on Health Care Agent.

- B. No person who relies in good faith upon the authority of or any representations by my health care agent shall be liable to me, my estate, my heirs, successors, assigns, or personal representatives, for actions or omissions in reliance on that authority or those representations.

- B. The powers conferred on my health care agent by this document may be exercised by my health care agent alone, and my health care agent's signature or action taken under the authority granted in this document may be accepted by persons as fully authorized by me and with the same force and effect as if I were personally present, competent, and acting on my own behalf. All acts performed in good faith by my health care agent pursuant to this power of attorney are done with my consent and shall have the same validity and effect as if I were present and exercised the powers myself, and shall inure to the benefit of and bind me, my estate, my heirs, successors, assigns, and personal representatives. The authority of my health care agent pursuant to this power of attorney shall be superior to and binding upon my family, relatives, friends, and others.

9. Miscellaneous Provisions.

- A. Revocation of Prior Powers of Attorney. I revoke any prior health care power of attorney. The preceding sentence is not intended to revoke any general powers of attorney, some of the provisions of which may relate to health care; however, this power of attorney shall take precedence over any health care provisions in a valid general power of attorney I have not revoked.

- B. Jurisdiction, Severability, and Durability. This Health Care Power of Attorney is intended to be valid in any jurisdiction in which it is presented. The powers delegated under this power of attorney are severable, so that the invalidity of one or more powers shall not affect any others. This power of attorney shall not be affected or revoked by my incapacity or mental incompetence.

- C. Health Care Agent Not Liable. My health care agent and my health care agent's estate, heirs, successors, and assigns are hereby released and forever discharged by me, my estate, my heirs, successors, assigns, and personal representatives from all liability and from all claims or demands of all kinds arising out of my health care agent's acts or omissions, except for my health care agent's willful misconduct or gross negligence.

- D. No Civil or Criminal Liability. No act or omission of my health care agent, or of any other person, entity, institution, or facility acting in good faith in reliance on the authority of my health care agent pursuant to this Health Care Power of Attorney shall be considered suicide, nor the cause of my death for any civil or criminal purposes, nor shall it be considered unprofessional conduct or as lack of professional competence. Any person, entity, institution, or facility against whom criminal or civil liability is asserted because of conduct authorized by this Health Care Power of Attorney may interpose this document as a defense.

- E. Reimbursement. My health care agent shall be entitled to reimbursement for all reasonable expenses incurred as a result of carrying out any provision of this directive.

[PRINCIPAL'S SIGNATURE]

By signing here, I indicate that I am mentally alert and competent, fully informed as to the contents of this document, and understand the full import of this grant of powers to my health care agent.

This the 23rd day of January, 20 18 Joan Karen Peterson (SEAL)

Signature of Principal

[WITNESSES]

I hereby state that the principal, **Joan Karen Peterson**, being of sound mind, signed (or directed another to sign on the principal's behalf) the foregoing health care power of attorney in my presence, and that I am not related to the principal by blood or marriage, and I would not be entitled to any portion of the estate of the principal under any existing will or codicil of the principal or as an heir under the Intestate Succession Act, if the principal died on this date without a will. I also state that I am not the principal's attending physician, nor a licensed health care provider or mental health treatment provider who is (1) an employee of the principal's attending physician or mental health treatment provider, (2) an employee of the health facility in which the principal is a patient, or (3) an employee of a nursing home or any adult care home where the principal resides. I further state that I do not have any claim against the principal or the estate of the principal.

Date: January 23, 2018

Witness: Omar Hector Olson

Date: Jan. 23, 2018

Witness: Daniel Lee Boxer

[NOTARY]

Mecklenberg COUNTY, **North Carolina** STATE

Sworn to (or affirmed) and subscribed before me this day by Joan Karen Peterson
(type/print name of signer)

Omar Hector Olson
(type/print name of witness)

Daniel Lee Boxer
(type/print name of witness)

Date: January 23, 2018

(Official Seal)

Peggy B. Estrada

Signature of Notary Public

Peggy B. Estrada, Notary Public
Printed or typed name

My commission expires: Jan. 11, 2024



**FORM 6:
ADVANCE DIRECTIVE FOR A NATURAL
DEATH (“LIVING WILL”)**

ADVANCE DIRECTIVE FOR A NATURAL DEATH ("LIVING WILL")

NOTE: YOU SHOULD USE THIS DOCUMENT TO GIVE YOUR HEALTH CARE PROVIDERS INSTRUCTIONS TO WITHHOLD OR WITHDRAW LIFE-PROLONGING MEASURES IN CERTAIN SITUATIONS. THERE IS NO LEGAL REQUIREMENT THAT ANYONE EXECUTE A LIVING WILL.

GENERAL INSTRUCTIONS: You can use this Advance Directive ("Living Will") form to give instructions for the future if you want your health care providers to withhold or withdraw life-prolonging measures in certain situations. You should talk to your doctor about what these terms mean. The Living Will states what choices you would have made for yourself if you were able to communicate. Talk to your family members, friends, and others you trust about your choices. Also, it is a good idea to talk with professionals such as your doctors, clergy, and lawyers before you complete and sign this Living Will.

You do not have to use this form to give those instructions, but if you create your own Advance Directive you need to be very careful to ensure that it is consistent with North Carolina law.

This Living Will form is intended to be valid in any jurisdiction in which it is presented, but places outside North Carolina may impose requirements that this form does not meet.

If you want to use this form, you must complete it, sign it, and have your signature witnessed by two qualified witnesses and proved by a notary public. Follow the instructions about which choices you can initial very carefully. **Do not sign this form until** two witnesses and a notary public are present to watch you sign it. You then should consider giving a copy to your primary physician and/or a trusted relative, and should consider filing it with the Advanced Health Care Directive Registry maintained by the North Carolina Secretary of State: <http://www.nclifelinks.org/ahcdr/>

My Desire for a Natural Death

I, **John Kevin Baker**, being of sound mind, desire that, as specified below, my life not be prolonged by life-prolonging measures:

1. When My Directives Apply

My directions about prolonging my life shall apply **IF** my attending physician determines that I lack capacity to make or communicate health care decisions and:

NOTE: YOU MAY INITIAL ANY AND ALL OF THESE CHOICES.

<u>J.K.B.</u> (Initial)	I have an incurable or irreversible condition that will result in my death within a relatively short period of time.
_____ (Initial)	I become unconscious and my health care providers determine that, to a high degree of medical certainty, I will never regain my consciousness.
_____ (Initial)	I suffer from advanced dementia or other condition which results in the substantial loss of my cognitive ability and my health care providers determine that, to a high degree of medical certainty, this loss is not reversible.

2. These are My Directives about Prolonging My Life:

In those situations I have initialed in Section 1, I direct that my health care providers:

NOTE: INITIAL ONLY IN ONE PLACE.

_____ (Initial)	may withhold or withdraw life-prolonging measures.
<u>J.K.B.</u> (Initial)	shall withhold or withdraw life-prolonging measures.

3. Exceptions - "Artificial Nutrition or Hydration"

NOTE: INITIAL ONLY IF YOU WANT TO MAKE EXCEPTIONS TO YOUR INSTRUCTIONS IN PARAGRAPH 2.

EVEN THOUGH I do not want my life prolonged in those situations I initialed in Section 1:

<p>_____</p> <p>(Initial)</p>	<p>I <i>DO</i> want to receive BOTH artificial hydration AND artificial nutrition (for example, through tubes) in those situations.</p> <p>NOTE: DO NOT INITIAL THIS BLOCK IF ONE OF THE BLOCKS BELOW IS INITIALED.</p>
<p>_____</p> <p>(Initial)</p>	<p>I <i>DO</i> want to receive ONLY artificial hydration (for example, through tubes) in those situations</p> <p>NOTE: DO NOT INITIAL THE BLOCK ABOVE OR BELOW IF THIS BLOCK IS INITIALED.</p>
<p>_____</p> <p>(Initial)</p>	<p>I <i>DO</i> want to receive ONLY artificial nutrition (for example, through tubes) in those situations.</p> <p>NOTE: DO NOT INITIAL EITHER OF THE TWO BLOCKS ABOVE IF THIS BLOCK IS INITIALED.</p>

4. I Wish to be Made as Comfortable as Possible

I direct that my health care providers take reasonable steps to keep me as clean, comfortable, and free of pain as possible so my dignity is maintained, even though this may hasten death.

5. I Understand my Advance Directive

I am aware and understand that this document directs certain life-prolonging measures to be withheld or discontinued in accordance with my advance instructions.

6. If I have an Available Health Care Agent

If I have appointed a health care agent by executing a health care power of attorney or similar instrument, and that health care agent is acting and available and gives instructions that differ from this Advance Directive, then I direct that:

<p>_____</p> <p>(Initial)</p>	<p>Follow Advance Directive: This Advance Directive will override instructions my health care agent gives about prolonging my life.</p>
<p>J.K.B.</p> <p>(Initial)</p>	<p>Follow Health Care Agent: My health care agent has authority to override this Advance Directive.</p>

NOTE: DO NOT INITIAL BOTH BLOCKS. IF YOU DO NOT INITIAL EITHER BOX, THEN YOUR HEALTH CARE PROVIDERS WILL FOLLOW THIS ADVANCE DIRECTIVE AND IGNORE THE INSTRUCTIONS OF YOUR HEALTH CARE AGENT ABOUT PROLONGING YOUR LIFE.

7. My Health Care Providers May Rely on this Directive

My health care providers shall not be liable to me or to my family, my estate, my heirs, or my personal representative for following the instructions I give in this instrument. Following my directions shall not be considered suicide, or the cause of my death, or malpractice or unprofessional conduct. If I have revoked this instrument but my health care providers do not know that I have done so, and they follow the instructions in this instrument in good faith, they shall be entitled to the same protections they would have been entitled if the instrument had not been revoked.

8. I Want this Directive to be Effective Anywhere

I intend that this Advance Directive be followed by any health care provider in any place.

9. **I have the Right to Revoke this Advance Directive**

I understand that at any time I may revoke this Advance Directive in a writing I sign or by communicating in any clear and consistent manner my intent to revoke it to my attending physician. I understand that if I revoke this instrument I should try to destroy all copies of it.

[SIGNATURE]

This the 23rd day of January, 20 18

John Kevin Baker

Print Name John Kevin Baker

[WITNESSES]

I hereby state that the declarant, **John Kevin Baker**, being of sound mind, signed (or directed another to sign on declarant's behalf) the foregoing Advance Directive for a Natural Death in my presence, and that I am not related to the declarant by blood or marriage, and I would not be entitled to any portion of the estate of the declarant under any existing will or codicil of the declarant or as an heir under the Intestate Succession Act, if the declarant died on this date without a will. I also state that I am not the declarant's attending physician, nor a licensed health care provider who is (1) an employee of the declarant's attending physician, (2) nor an employee of the health facility in which the declarant is a patient, or (3) an employee of a nursing home or any adult care home where the declarant resides. I further state that I do not have any claim against the declarant or the estate of the declarant.

Date: January 23, 2018

Witness: Omar Hector Olson

Date: Jan. 23, 2018

Witness: Daniel Lee Boxer

[NOTARY]

Mecklenberg COUNTY, North Carolina STATE

Sworn to (or affirmed) and subscribed before me this day by John Kevin Baker
(type/print name of signer)

Omar Hector Olson
(type/print name of witness)

Daniel Lee Boxer
(type/print name of witness)

Date: January 23, 2018
(Official Seal)

Peggy B. Estrada
Signature of Notary Public

Peggy B. Estrada, Notary Public
Printed or typed name

My commission expires: Jan. 11, 2024



**SAMPLE FILLED OUT
FORM 7:
DO-NOT-RESUSCITATE AND M.O.S.T.**



Effective Date: **Aug. 1, 2018**

Expiration Date, if any _____

Check box if no expiration

DO NOT RESUSCITATE ORDER

John David Baker

Patient's full name _____

In the event of cardiac and/or pulmonary arrest of the patient, efforts at cardiopulmonary resuscitation of the patient SHOULD NOT be initiated. This order does not affect other medically indicated and comfort care.

I have documented the basis for this order and the consent required by the NC General Statute 90-21.17(b) in the patient's records.

Dr. Chris A. Carlson

Signature of Attending Physician/Physician Assistant/Nurse Practitioner

Dr. Chris A. Carlson

Printed Name of Attending Physician

101 Main St.

Address

Ararat, NC 27002

City, State, Zip

Telephone Number (office) **336-555-1121**

Telephone Number (emergency) **336-555-0001**

Do Not Copy

Do Not Alter



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HIPAA PERMITS DISCLOSURE OF MOST TO OTHER HEALTH CARE PROFESSIONALS AS NECESSARY



Medical Orders

for Scope of Treatment (MOST)

This is a Physician Order Sheet based on the patient's medical condition and wishes. Any section not completed indicates full treatment for that section. **When the need occurs, first follow these orders, then contact physician.**

Patient's Last Name:

Smith

Effective Date of Form:

1-2-2017

Patient's First Name, Middle Initial:

Mary, P.

Patient's Date of Birth:

1-8-1941

Section A
Check One Box Only

CARDIOPULMONARY RESUSCITATION (CPR): Patient has no pulse and is not breathing.
 Attempt Resuscitation (CPR) **Do Not Attempt Resuscitation (DNR/no CPR)**
 When not in cardiopulmonary arrest, follow orders in B, C, and D.

Section B
Check One Box Only

MEDICAL INTERVENTIONS: Patient has pulse and/or is breathing.
 Full Scope of Treatment: Use intubation, advanced airway interventions, mechanical ventilation, cardioversion as indicated, medical treatment, IV fluids, etc.; also provide comfort measures. **Transfer to hospital if indicated.**
 Limited Additional Interventions: Use medical treatment, IV fluids and cardiac monitoring as indicated. Do not use intubation or mechanical ventilation. May consider use of less invasive airway support such as BiPAP or CPAP. Also provide comfort measures. **Transfer to hospital if indicated. Avoid intensive care.**
 Comfort Measures: Keep clean, warm and dry. Use medication by any route, positioning, wound care and other measures to relieve pain and suffering. Use oxygen, suction and manual treatment of airway obstruction as needed for comfort. **Do not transfer to hospital unless comfort needs cannot be met in current location.**

Other Instructions _____

Section C
Check One Box Only

ANTIBIOTICS
 Antibiotics if indicated
 Determine use or limitation of antibiotics when infection occurs
 No Antibiotics (use other measures to relieve symptoms)
 Other Instructions _____

Section D
Check One Box Only in Each Column

MEDICALLY ADMINISTERED FLUIDS AND NUTRITION: Offer oral fluids and nutrition if physically feasible.
 IV fluids if indicated **Feeding tube long-term if indicated**
 IV fluids for a defined trial period **Feeding tube for a defined trial period**
 No IV fluids (provide other measures to ensure comfort) **No feeding tube**
 Other Instructions _____

Section E
Check The Appropriate Box

DISCUSSED WITH AND AGREED TO BY: Patient
 Parent or guardian if patient is a minor
 Health care agent
 Legal guardian of the patient
 Attorney-in-fact with power to make health care decisions
 Spouse
 Majority of patient's reasonably available parents and adult children
 Majority of patient's reasonably available adult siblings
 An individual with an established relationship with the patient who is acting in good faith and can reliably convey the wishes of the patient
Basis for order must be documented in medical record.

MD/DO, PA, or NP Name (Print): **Dr. Chris A. Carlson** MD/DO, PA, or NP Signature and Date (Required): *Chris A. Carlson* **1-2-2017** Phone #: **919-555-1101**

Signature of Patient, Parent of Minor, Guardian, Health Care Agent, Spouse, or Other Personal Representative
 (Signature is required and must either be on this form or on file)

I agree that adequate information has been provided and significant thought has been given to life-prolonging measures. Treatment preferences have been expressed to the physician (MD/DO), physician assistant, or nurse practitioner. This document reflects those treatment preferences and indicates informed consent.

If signed by a patient representative, preferences expressed must reflect patient's wishes as best understood by that representative. Contact information for personal representative should be provided on the back of this form.

You are not required to sign this form to receive treatment.

Patient or Representative Name (print) Mary P. Smith	Patient or Representative Signature <i>Mary P. Smith</i>	Relationship (write "self" if patient) self
--	---	---

SEND FORM WITH PATIENT/RESIDENT WHEN TRANSFERRED OR DISCHARGED

HIPAA PERMITS DISCLOSURE OF MOST TO OTHER HEALTH CARE PROFESSIONALS AS NECESSARY

Contact Information

Patient Representative: none (patient did own form)	Relationship: none (patient did own form)	Phone #: 209-555-9283
		Cell Phone #: see above
Health Care Professional Preparing Form: Chris A. Carlson	Preparer Title: Doctor (attending)	Preferred Phone #: 209-555-1231
		Date Prepared: 1-2-2017

Directions for Completing Form

Completing MOST

- MOST must be reviewed and prepared by a health care professional in consultation with the patient or patient representative.
- MOST is a medical order and must be signed and dated by a licensed physician (MD/DO), physician assistant, or nurse practitioner to be valid. **Be sure to document the basis for the order in the progress notes of the medical record.** Mode of communication (e.g., in person, by telephone, etc.) also should be documented.
- The signature of the patient or his/her representative is required; however, if the patient's representative is not reasonably available to sign the original form, a copy of the completed form with the signature of the patient's representative must be placed in the medical record and "on file" must be written in the appropriate signature field on the front of this form or in the review section below.
- Use of original form is required. **Be sure to send the original form with the patient.**
- MOST is part of advance care planning, which also may include a living will and health care power of attorney (HCPOA). If there is a HCPOA, living will, or other advance directive, a copy should be attached if available. **MOST may suspend any conflicting directions in a patient's previously executed HCPOA, living will, or other advance directive.**
- **There is no requirement that a patient have a MOST.**
- MOST is recognized under N. C. G en. Stat. 90-21.17.

Reviewing MOST

Review of the MOST form is recommended when:

- The patient is admitted to and/or discharged from a health care facility; or
- There is a substantial change in the patient's health status.

This MOST must be reviewed if:

- The patient's treatment preferences change.

If MOST is revised or becomes invalid, draw a line through Sections A – E and write "VOID" in large letters.

Revocation of MOST

A patient with capacity or the patient's representative (if the patient lacks capacity) can revoke the MOST at any time and request alternative treatment based on the known preferences of the patient or, if unknown, the patient's best interests.

Review of MOST

Review Date	Reviewer and location of review	MD/DO, PA, or NP Signature (required)	Signature of patient or representative (preferred)	Outcome of Review
				<input type="checkbox"/> No Change <input type="checkbox"/> FORM VOIDED, new form completed <input type="checkbox"/> FORM VOIDED, no new form
				<input type="checkbox"/> No Change <input type="checkbox"/> FORM VOIDED, new form completed <input type="checkbox"/> FORM VOIDED, no new form
				<input type="checkbox"/> No Change <input type="checkbox"/> FORM VOIDED, new form completed <input type="checkbox"/> FORM VOIDED, no new form
				<input type="checkbox"/> No Change <input type="checkbox"/> FORM VOIDED, new form completed <input type="checkbox"/> FORM VOIDED, no new form
				<input type="checkbox"/> No Change <input type="checkbox"/> FORM VOIDED, new form completed <input type="checkbox"/> FORM VOIDED, no new form

SEND FORM WITH PATIENT/RESIDENT WHEN TRANSFERRED OR DISCHARGED

DO NOT ALTER THIS FORM!

**SAMPLE FILLED OUT
FORM 8:
STATUTORY SHORT FORM POWER OF ATTORNEY**

NORTH CAROLINA STATUTORY SHORT FORM POWER OF ATTORNEY

NOTICE: THE POWERS GRANTED BY THIS DOCUMENT ARE BROAD AND SWEEPING. THEY ARE DEFINED IN CHAPTER 32C OF THE NORTH CAROLINA GENERAL STATUTES, WHICH EXPRESSLY PERMITS THE USE OF ANY OTHER OR DIFFERENT FORM OF POWER OF ATTORNEY DESIRED BY THE PARTIES CONCERNED.

IMPORTANT INFORMATION

This power of attorney authorizes another person (your agent) to make decisions concerning your property for you (the principal). Your agent will be able to make decisions and act with respect to your property (including your money) whether or not you are able to act for yourself. The meaning of authority over subjects listed on this form is explained in the North Carolina Uniform Power of Attorney Act.

This power of attorney does **not** authorize the agent to make health-care decisions for you.

You should select someone you trust to serve as your agent. Unless you specify otherwise, generally the agent's authority will continue until you die or revoke the power of attorney or the agent resigns or is unable to act for you.

Your agent is entitled to reasonable compensation unless you state otherwise in the Additional Provisions and Exclusions.

This form provides for designation of one agent, a successor agent, and a second successor agent. If you wish to name more than one agent, successor agent, and second successor agent, you may name a coagent, successor coagent, or second successor coagent in the Additional Provisions and Exclusions. Coagents, successor coagents, or second successor coagents are not required to act together unless you include that requirement in the Additional Provisions and Exclusions.

If your agent is unable or unwilling to act for you, your power of attorney will end unless you have named a successor agent. You may also name a second successor agent.

This power of attorney becomes effective immediately.

If you have questions about the power of attorney or the authority you are granting to your agent, you should seek legal advice before signing this form.

DESIGNATION OF AGENT

I, **Michael John Zinskey**, name the following person as my agent:
(Name of Principal)

Name of Agent: **Margaret Ann Zinskey**

This power of attorney is durable and shall not be affected by my subsequent incapacity or mental incompetence or by passage or lapse of time, unless specified in this document.

DESIGNATION OF SUCCESSOR AGENT(S) (OPTIONAL)

If my agent is unable or unwilling to act for me, I name as my successor agent:

Name of Successor Agent: **None**

If my successor agent is unable or unwilling to act, I name as second successor agent:

Name of Second Successor Agent: **None**

INITIAL below if you want to give an agent the power to name a successor agent.

(M.J.Z.) I give to my acting agent the full power to appoint another to act as my agent, and full power to revoke such appointment, if no agent named by me above is willing or able to act.

GRANT OF GENERAL AUTHORITY

I grant my agent and any successor agent general authority to act for me with respect to the following subjects as defined in the North Carolina Uniform Power of Attorney Act, Chapter 32C of the General Statutes:

(INITIAL each subject you want to include in the agent's general authority. If you wish to grant general authority over all the subjects you may initial just "All Preceding Subjects")

Real Property

Tangible Personal Property

Stocks and Bonds

Commodities and Options

Banks and Other Financial Institutions

Operation of Entity

Insurance and Annuities

Estates, Trusts, and Other Beneficial Interests

Claims and Litigation

Personal and Family Maintenance

Benefits from Governmental Programs or Civil or Military Service

Retirement Plans

Taxes

(M.J.Z.) All Preceding Subjects

GRANT OF SPECIFIC AUTHORITY (OPTIONAL)

My agent MAY NOT do any of the following specific acts for me UNLESS I have INITIALED the specific authority listed below:

(CAUTION: Granting any of the following will give your agent the authority to take actions that could significantly reduce your property or change how your property is distributed at your death. INITIAL ONLY the specific authority you WANT to give your agent.)

- () Make a gift, subject to the limitations provided in G.S. 32C-2-217
- () Create or change rights of survivorship
- () Create or change a beneficiary designation
- () Authorize another person to use the authority granted under this power of attorney
- () Waive my right to be a beneficiary of a joint and survivor annuity, including a survivor benefit under a retirement plan
- () Exercise fiduciary powers that I have authority to delegate
- () Disclaim or refuse an interest in property, including a power of appointment
- (M.J.Z.)** Access the content of electronic communications

EXERCISE OF SPECIFIC AUTHORITY IN FAVOR OF AGENT (OPTIONAL)

() UNLESS INITIALED, my agent MAY NOT exercise any of the grants of specific authority initialed above in favor of the agent or an individual to whom the agent owes a legal obligation of support.

ADDITIONAL PROVISIONS AND EXCLUSIONS (OPTIONAL)

() _____

EFFECTIVE DATE

This power of attorney is effective immediately.

NOMINATION OF GUARDIAN (OPTIONAL)

INITIAL below ONLY if you WANT your acting agent to be your Guardian.

(M.J.Z.) If it becomes necessary for a court to appoint a guardian of my estate or a general guardian, I nominate my agent acting under this power of attorney to be the guardian to serve without bond or other security.

RELIANCE ON THIS POWER OF ATTORNEY

Any person, including my agent, may rely upon the validity of this power of attorney or a copy of it unless that person knows it has terminated or is invalid.

MEANING AND EFFECT

The meaning and effect of this power of attorney shall for all purposes be determined by the law of the State of North Carolina.

SIGNATURE AND ACKNOWLEDGEMENT

Michael John Zinskey

Your Signature

May 1, 2018

Date

Michael John Zinskey

Your Name Printed

State of **North Carolina**, County of **Caldwell**

I certify that the following person personally appeared before me this day, acknowledging to me that he or she signed the foregoing document: **Michael John Zinskey**

Date: **January 23, 2018**

(Official Seal)

Peggy B. Estrada

Signature of Notary Public

Peggy B. Estrada, Notary Public

Printed or typed name

My commission expires: **Jan. 11, 2024**



**SAMPLE FILLED OUT
FORM 9:
AUTHORIZATION TO CONSENT TO
HEALTH CARE FOR MINOR**

**AUTHORIZATION TO CONSENT
TO HEALTH CARE FOR MINOR**

I, **Mary Sue Hart**, of **Caldwell** County, North Carolina, am the custodial parent having legal custody of **Tillie Sue Hart**, a minor child, age **2**, born **May 1, 20 18**. I authorize **Olivia Tina Baker**, an adult in whose care the minor child has been entrusted, and who resides at **29 Main St., Durham, NC 27702**, to do any acts which may be necessary or proper to provide for the health care of the minor child, including, but not limited to, the power (i) to provide for such health care at any hospital or other institution, or the employing of any physician, dentist, nurse, or other person whose services may be needed for such health care, and (ii) to consent to and authorize any health care, including administration of anesthesia, X-ray exams, performance of operations, and other procedures by physicians, dentists, and other medical personnel except withholding or withdrawal of life sustaining procedures.

By signing here, I indicate that I have the understanding and capacity to communicate health care decisions and that I am fully informed as to the contents of this document and understand the full import of this grant of powers to the agent named herein.

Mary Sue Hart

(SEAL)

Jan. 3, 2018

Custodial Parent

Date

STATE OF NORTH CAROLINA

COUNTY OF **Caldwell**

On this **4th** day of **May**, 20 **18**, personally appeared before me the named **Mary Sue Hart**, to me known and known to me to be the person described in and who executed the foregoing instrument and she acknowledges that she executed the same and being duly sworn by me, made oath that the statements in the foregoing instrument are true.

Date: **January 3, 2018**

(Official Seal)

Peggy B. Estrada

Signature of Notary Public

Peggy B. Estrada, Notary Public

Printed or typed name

My commission expires: **Jan. 11, 2024**



END OF BOOK

NOTES

NOTES

NOTES

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