

Living Wills, Wills and Trusts

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Different Legal Planning Devices

- Living Will
- Power of Attorney
- Will
- Trust



Living Will

- A declaration in which you state your wishes to have all or certain types of medical treatment withheld or withdrawn if you are suffering from a terminal and irreversible condition.



Living Will

- Not legally required to have, but if you do not have, the law provides who would make these decisions:
 - Healthcare Power of Attorney
 - Spouse
 - Adult children
 - Parents
 - Siblings
 - Grandparents/Grandchildren
 - Court Appointed

Living Will

- May be oral or non-verbal after diagnosed with terminal or irreversible condition.
- Best practice is to have a written declaration.
- Provide copies to healthcare providers.
- Provide copies to family members/decision-makers.
- May be registered with Louisiana Secretary of State's Office

Written Living Will

- Must be voluntary and of sound mind (emotional and mental).
- State the criteria – usually that two physicians examine and certify that life-sustaining procedures would only prolong the dying process artificially .
- State desire regarding life-sustaining procedures.
- Contain declaration of unrelated/uninterested person regarding soundness of mind.
- Executed in the presence of a notary and two uninterested/unrelated witnesses.

Power of Attorney



Gives another person authority to act on your behalf, for financial or medical decisions, or both.



Types of Power of Attorney

- General
- Limited
- Healthcare

General Power of Attorney

- Grants the agent specific authority to make decisions on behalf of the principal.
- Useful for military service members, individuals facing life-threatening or cognitive diseases, or individuals facing high-risk surgeries.
- Helps agent make legal, financial, and/or medical decisions whenever principal is unable to make own decisions or becomes incapacitated.
- Usually granted to spouse, family member, or close friend.

Topics of General Power of Attorney

- Bank Accounts
- Investments
- Property
- Businesses
- Writing checks
- Borrowing money
- Lending money
- Settling claims
- Life insurance
- Retirement plans
- Trusts
- Gifts

Limited Power of Attorney

- Contains very specific language for what authority you are giving to the agent.

Healthcare Power of Attorney

- Legal document that lets you give someone legal authority to make important decisions about your medical care.
- Decisions could be about treatment options, medication, surgery, end-of-life care, and more.



Topics of Healthcare Power of Attorney

- Access to Medical Records
- Selection of Doctors
- Treatment Decisions
- Pain Management
- Home Health
- Nursing Homes
- Withdrawal of Life Support





Will

A legal document that expresses a person's wishes as to how their property is to be distributed after their death and as to which person is to manage the property until its final distribution.

Intestate Succession

If you die with:	Here's what happens:
children but no spouse	children inherit everything
spouse but no children, parents, or siblings	spouse inherits everything
parents but no children, spouse, or siblings	parents inherit everything
siblings but no children, spouse, or parents	siblings inherit everything
a spouse and children	spouse has the right to use your share of the community property for life; this is called a "usufruct" children inherit your share of community property subject to the surviving spouse's right to use it for life, plus all of your separate property
a spouse and parents	spouse inherits all your community property parents inherit your separate property
a spouse and siblings, but no parents	spouse inherits all of your community property siblings inherit your separate property
siblings and parents, but no spouse or children	parents have the right to use your intestate property for life, then your siblings inherit everything



Types of Wills

- Olographic: Written out, dated anywhere, and signed at the end.
- Notarial: Dated and signed in the presence of a notary and two witnesses.



Additional Considerations

- Community Property
- Forced Heirship
- Executor
- Debts
- Things that fall out: living trusts; life insurance; retirement accounts with beneficiaries; transfer on death accounts, securities, real estate or property



Trust

A legal entity that can receive, own, and manage a variety of assets, including real estate, automobiles, and art collections.

Types of Trusts

- **Testamentary Trust:** Created through a will, this trust becomes effective upon the death of the person who created the will, providing a posthumous mechanism for asset distribution.
- **Revocable Living Trust:** Allows the grantor to maintain control of assets during their lifetime, with the flexibility to make changes, a particularly advantageous feature in Louisiana's legal system.

Types of Trusts

- Irrevocable Trust: Offers enhanced asset protection and potential tax benefits, aligning with the specific needs of Louisiana residents.
- Special Needs Trust: Specifically designed to benefit individuals with disabilities, this trust can supplement government benefits without disqualifying the individual from receiving them.

Advantages of Testamentary Trust

- Avoids probate
- Reduces delays
- Privacy/confidentiality
- Reduced costs
- Tax benefits
- Control



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Questions?

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