

Wills and Advance Planning

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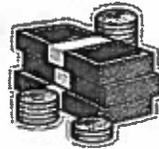
Who We Are

- Legal Aid provides free legal services to low-income and vulnerable people in need all over Maryland.
- One of Maryland's largest statewide law firms
- Non-profit agency with funding from various government and private grants and donations
- 13 Offices throughout the state, and Law Practices in every county in the state
- Rockville Office at 600 Jefferson Plaza



Why have a will?

- Allows you to provide written directions about distribution of property after you die
- In other words, you decide who inherits what
- Can prevent future family strife



Who can make a will?

- Anyone who is 18 years of age or older, and legally competent.
- People are presumed competent unless a court finds otherwise.



What does it mean to have the mental capacity to make a will?

- At the time of making the will
 - You understood what you were doing
 - You knew what property you had
 - You understood whom you were giving it to
 - You knew who were “the objects of your bounty”



What are the requirements for a will?

- A will made in Maryland must be:
 1. In writing
 2. Signed by you (or by some other person for you, in your presence and by your express direction)
 3. Attested and signed by two or more credible witnesses in your presence



More about the witnesses

- Witnesses do not have to sign in each other's presence
- Witnesses do not have to know the content of the will)



Are there any exceptions?

- Yes –
 - Person in armed service can do a will in their handwriting (called a holographic will)
 - Will be valid until one year after the person is discharged from the armed service



What about wills from other states?

- A will you made outside the state of Maryland is valid in Maryland if it is:
 1. In writing,
 2. Signed by you,
 3. Done according to the law where you made it, or where the will is executed.



What if I don't like my will? How do I revoke it?

- Can revoke will in subsequent, validly executed will
- If you destroy the will, or direct someone else to destroy it
- Subsequent marriage and children
- Divorce or annulment of a marriage



What if I just want to add or change a part of my will?

- An addition to a will is called a codicil.
- Any additions or changes must meet the formal requirements for writing a will.



Limitations of Wills

- Wills only dispose of "probate assets," which are assets only owned by one person
- Assets owned by joint owners with right of survivorship pass directly to the other joint owner(s)



What happens if there is no will?

- The intestate laws of Maryland apply.
- Divides the estate among the surviving spouse, children, parents, depending on the age of the children.
- If no spouse, children, parents, goes to next relatives
- If no relatives, goes to Board of Education in that jurisdiction.



What other advance planning options are available?

- Financial Power of Attorney
- Health Care Advance Directive
- Representative Payee
- Trust



Powers of Attorney

- Allows you to designate someone to handle financial matters
- Better option than joint bank accounts or transfers of property
- Powers of attorney end when you die
- Maryland now has statutory power of attorney forms
- Designed so that banks, third parties will accept them

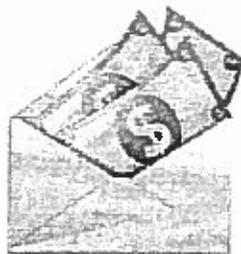


Health Care Advance Directives

- Also called a durable power of attorney for health care
- You can choose someone to be your agent (make health care decisions for you)
- The agent has as much authority as you give
- You can give written instructions about your end-of-life care (sometimes called a living will)



Representative Payees



- If limited property or income, may not need power of attorney or guardian
- Social Security and VA have simple procedures for "Representative Payees"



Trusts

- Trustee holds title to property for the benefit of other person (called the beneficiary)
- Can be used when someone is alive or after death
- Special Needs Trusts – often designed to ensure eligibility for public benefits



Useful Resources

- People's Law Library
 - www.peoples-law.org
 - Look up powers of attorney, wills, etc.
- ABA Commission on Law and Aging
 - Includes Legal Guide for the Seriously Ill
 - www.abanet.org/aging
- Office of the Register of Wills – www.registers.maryland.gov
- Office of the Attorney General – Health Decisions Policy
 - Includes Advance Directives forms
 - <http://www.oag.state.md.us/Healthpol/AdvanceDirectives>



Questions?

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