

# Estate Planning 101

# Handouts

**Presented by**

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Estate and Trust Attorney and Mediator

## 2020 Federal Unified Credit Estate, Gift and Generation-Skipping Tax Laws

<b>Effective Exemption Amount</b> <i>(How much can I give away during my lifetime or leave at death without paying gift, estate tax, or generation-skipping tax?)</i>	<p><b>\$11,580,000</b> <i>(estate tax or gift tax – taxpayer choice)</i></p> <p><b>\$11,580,000</b> <i>(generation-skipping taxes)</i></p>	<b>Gift, Estate &amp; Generation Skipping Tax (GST) Rates</b> <i>(If I have more than the tax-free amount, how much goes to taxes?)</i>	<p><b>40%</b></p>
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Other Provisions				
Basis	Lifetime Gift & Estate Tax Exemption	Annual Gift Tax Exclusion	Portability	Generation-Skipping Exemption
<p>Generally, each estate asset is given a new basis equal to its fair market value as of the decedent's date of death. That means the decedent's basis, however low or high, disappeared along with the potential capital gains tax treatment. This is known as a "step-up" in basis.</p>	<p>The total lifetime tax-free exemption amount for estate and gift tax is now a unified credit of \$11,580,000, whether a lifetime gift or given at death.</p>	<p>The annual gift tax exclusion is \$15,000. You may make a gift of this amount to as many people as you like and file no gift tax return.</p>	<p>This new concept assists a married couple to not lose the first decedent's unified credit when the couple did no death tax planning so that the couple can pass a total of \$11,580,000 tax-free to their heirs. However, several issues make this not a good thing upon which to rely. To use it, a federal death tax return must be filed for the first spouse to die.</p>	<p>This is where a gift is made during life or after death which skips a lineal descendant, or is made to any other person more than 37.5 years younger than the person making the gift. The exemption amount is <b>not</b> portable.</p>

(No Oklahoma Death or Gift Tax since January 1, 2010)



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Title 84. Wills and Succession

## 📁 Oklahoma Statutes Citationized

### 📁 Title 84. Wills and Succession

#### 📁 Chapter 2 - Execution and Revocation of Wills

#### 📁 Execution and Attestation

#### 📄 Section 54 - Holographic Wills

Cite as: O.S. §, \_\_ \_\_

A holographic will is one that is entirely written, dated and signed by the hand of the testator himself. It is subject to no other form, and may be made in or out of this State, and need not be witnessed.

### Historical Data

R.L. 1910, § 8347.

### Citationizer<sup>®</sup> Summary of Documents Citing This Document

Cite Name	Level
<b>Oklahoma Court of Civil Appeals Cases</b>	
Cite	Name Level
<a href="#">1992 OK CIV APP 165, 843 P.2d 856, 64 OBJ 185,</a>	<a href="#">Estate of Rigsby, Matter of</a> Cited
<a href="#">1999 OK CIV APP 63, 984 P.2d 258, 70 OBJ 2030,</a>	<a href="#">In re the Estate of Foreman</a> Cited
<b>Oklahoma Supreme Court Cases</b>	
Cite	Name Level
<a href="#">1994 OK 15, 868 P.2d 699, 65 OBJ 465,</a>	<a href="#">Estate of Carano, Matter of</a> Cited
<a href="#">1946 OK 263, 174 P.2d 850, 197 Okla. 567,</a>	<a href="#">HEUPEL v. HEUPEL</a> Cited
<a href="#">1954 OK 283, 279 P.2d 928,</a>	<a href="#">JOHNSON v. JOHNSON</a> Cited
<a href="#">1963 OK 44, 379 P.2d 692,</a>	<a href="#">IN MATTER OF ESTATE</a> Cited
<a href="#">1961 OK 292, 365 P.2d 163,</a>	<a href="#">HARTMAN v. PERDUE</a> Cited
<a href="#">2008 OK 16, 179 P.3d 1265,</a>	<a href="#">IN THE MATTER OF THE ESTATE OF SPEERS</a> Cited
<a href="#">2011 OK 96, 286 P.3d 283,</a>	<a href="#">IN THE MATTER OF THE ESTATE OF DICKSION</a> Cited
<a href="#">1976 OK 113, 554 P.2d 788,</a>	<a href="#">ESTATE OF WILDER</a> Cited
<a href="#">1950 OK 8, 254 P.2d 357, 208 Okla. 195,</a>	<a href="#">In re PAULL'S ESTATE</a> Cited

### Citationizer: Table of Authority

Cite Name Level

None Found.

## **Administering an Estate Through Probate**

### ***What is Probate?***

When a person dies, he or she is referred to as the decedent. Probate is the process by which the decedent's debts, taxes and administrative expenses are paid and the person's assets are distributed to the heirs-at-law (if there is no Will) or the beneficiaries (if there is a Will). Probate is essentially a lawsuit. It is usually a friendly lawsuit, but it is a lawsuit, nonetheless. Probate is necessary to transfer the ownership of any property titled solely in the decedent's name or to the estate.

### ***Who is Responsible to Probate a Decedent's Estate?***

When a person writes a Will, that person is known as the Testator. If a decedent left a Will, the named Personal Representative (sometimes referred to as the Executor) is responsible to initiate the probate process. If the decedent did not leave a Will, someone else (most often a family member) is responsible for initiating the court process.

### ***How is the Personal Representative or Administrator Chosen?***

If there is a Will, the decedent nominates someone or entity to take on the role of Personal Representative. Once the Will is filed for probate and the initial hearing is conducted before a judge, the judge issues a court order which appoints the Personal Representative. Normally, the judge appoints whomever is named in the Will. However, sometimes that person is unable, unwilling or unfit for the job. When that happens, if a backup is named in the Will, the probate judge will appoint that named person or entity, otherwise the Personal Representative will be chosen by the judge. A statute (law) lists that priority given to various family members or interested parties in the order in which they could be appointed. The first priority is given to the decedent's surviving spouse or a competent person the spouse requests to have appointed.

If there is not a Will, the probate judge appoints an administrator. While any competent person may petition the court to be appointed administrator, the same statute discussed above is considered by the judge.

### ***What Does the Personal Representative or Administrator Do?***

The Personal Representative or administrator's job is to manage the decedent's estate. Essentially, this boils down to collecting all of the decedent's belongings, paying off all of final debts, paying the expenses of administering the estate and distributing what is left to the heirs (beneficiaries).

The process is begun by filing a petition to probate the Will in the county where the decedent was a resident or in which he owned real property.

During probate, the Personal Representative or administrator's primary duties are to:

1. Gather and protect all of the assets of the estate;
2. Oversee any investments or businesses owned by the decedent until the estate can be distributed. This can be done personally or by hiring professionals;
3. Prepare and file with the court an inventory listing all of the assets of the estate;
4. Prepare and file the decedent's final income tax return. The Personal Representative will need to determine whether to file fiduciary income tax, estate tax, gift tax, and generation-skipping tax returns as may also be required;
5. Notify all known creditors and handle all claims filed against the estate for outstanding bills and other debts;
6. Liquidate those assets that are necessary to provide the estate with funds to pay claims against the estate;
7. Prepare, file with the court, and distribute an accounting of the income and distributions of the estate during probate; and
8. Distribute what is left to the beneficiaries according to the language of the Will, state law when there is no will and pursuant to the probate court's orders.

### ***Should the Personal Representative or Administrator Hire a Probate Attorney?***

A myriad of issues may come up during a probate causing it to seem an overwhelming experience for some; however, most of this work can be done efficiently by an experienced probate attorney.

If you find yourself in the role of Personal Representative, hire an experienced probate and estate lawyer. It is wise to hire one well versed in taxes, as well. These attorneys have the skills to help you through the court processes, tax filings, and managing the responsibilities of closing out someone's final affairs. Personal Representatives have personal liability for any failures to file tax returns. Ignorance is not an excuse.

## WHAT HAPPENS IF YOU DIE WITHOUT A WILL?

O.S. Tit. 84 §213

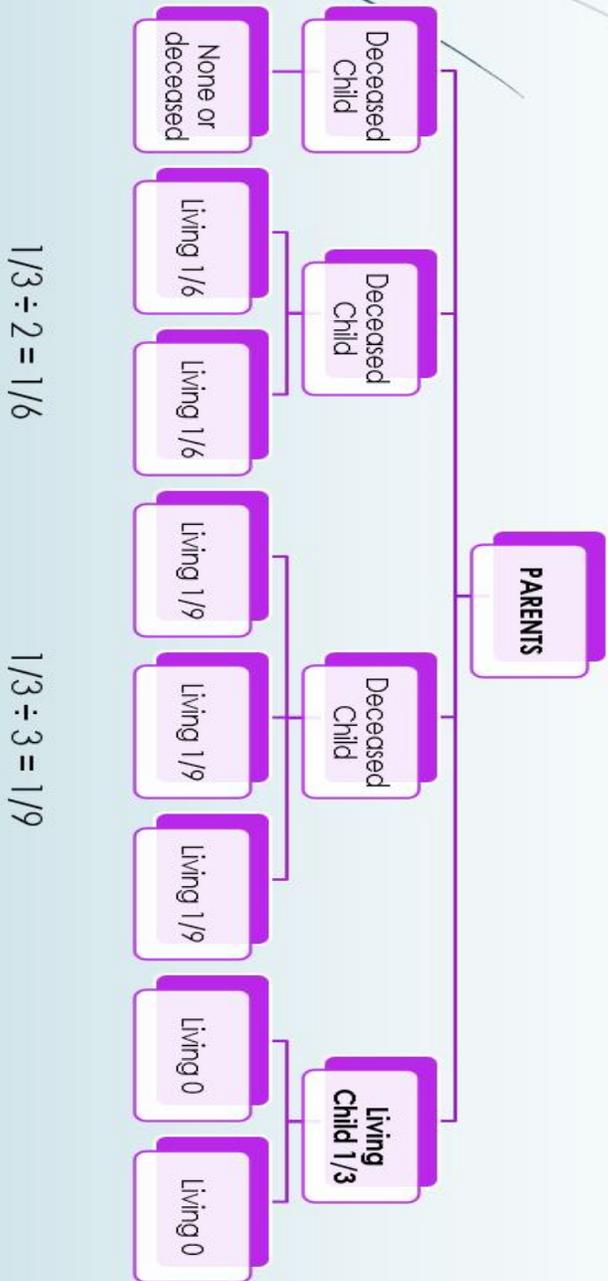
### **SURVIVING SPOUSE**

1. NO CHILDREN, NO PARENTS, NO SIBLINGS.
  - a. All decedent's estate passes to surviving spouse.
2. NO CHILDREN, SURVIVING PARENT OR PARENTS.
  - a. **Joint industry property**, all decedent's estate passes to spouse.
  - b. **Non joint industry property**, 1/3 of decedent's estate passes to spouse, and 2/3 of decedent's estate passes to the parent or parents.
3. SURVIVING CHILD(REN) WHO ARE CHILD(REN) OF SURVIVING SPOUSE.
  - a. 1/2 of decedent's estate passes to surviving spouse, and 1/2 to surviving child(ren).
4. SURVIVING CHILD(REN) ONE OR MORE WHO ARE NOT CHILD(REN) OF SURVIVING SPOUSE.
  - a. **Joint industry property**, 1/2 to spouse, and 1/2 to child(ren) per stirpes.
  - b. **Non joint industry property**, divide equally between spouse, and living child(ren) per stirpes.

### **NO SURVIVING SPOUSE**

5. SURVIVING CHILDREN. Decedent's estate passes equally to child(ren) with any deceased child's share passing to their child(ren).
6. CHILDREN OF TWO MARRIAGES. Decedent's estate still passes equally to child(ren) with any deceased child's share passing to their child(ren).
7. CHILD(REN) OF DECEDENT AND A GRANDCHILD ARE ALL DEAD. Equally to grandchildren with any deceased grandchild's share passing to their child(ren) per stirpes.
8. NO SURVIVING CHILDREN, SURVIVING PARENT OR PARENTS.
  - a. Decedent's estate passes equally to decedent's parent(s).
9. NO SURVIVING CHILDREN, NO SURVIVING PARENT, SURVIVING SIBLING(S). Decedent's estate passes equally to sibling(s).
10. IF NO SURVIVING SIBLING(S). Decedent's estate passes equally to nieces and nephews.
11. IF NO SURVIVING NIECES OR NEPHEWS. Deceased niece or nephews share passes equally to great nieces or nephews.
12. IF SURVIVING AND DECEASED SIBLING. Equally to siblings. Deceased sibling's share passes equally to children (niece or nephew), then deceased niece or nephew's share passes to great niece or nephew.

# Heirs at Law in Oklahoma (Per Stirpes)



## **Non-Probate Estate Options**

### ***Can Probate be Avoided?***

Yes. If the decedent executed an estate plan specifically designed to avoid probate, this court action can be avoided.

### ***What Tools Do Estate Planners Use to Avoid Probate?***

Generally, all assets that are just in the decedent's own name, only, and anything that is made payable to the decedent's estate must go through the court process. So, the trick is to ensure that no property remains in the decedent's name alone or is left to the decedent's estate. The following are just a handful of the tools employed by skilled estate planners to avoid probate:

#### **Living Trusts (also known as Revocable Trusts or Loving Trust).**

You may have heard of this type of trust. At death, this type of trust functions very similarly to a Will except there is no necessity of probate court supervision. The individual who creates this type of trust is called a grantor (also known as a trustor or settlor). In addition to creating the trust, the grantor must be careful to transfer the grantor's appropriate assets to the trust or name the trust as the beneficiary of the asset (for example, life insurance). If this is not done, probate has to occur in order to take the title to the asset out of the name of the decedent and transfer it into the name of the intended beneficiary. HOWEVER, it is critical to understand that there are some assets that it is a tax disaster to name the trust as the beneficiary (for example IRAs and 401(k)s).

#### **Payable-on-Death and Transfer-on-Death.**

These are other tools used by estate planners to avoid probate. These tools allow an individual to name a beneficiary who will automatically gain title to the property upon that individual's death without the need for probate court action.

### **Beneficiary Designation.**

Designation forms should always be used with retirement accounts, life insurance, annuities and other assets by contract to designate whom or what receives the account proceeds upon the owner's death. If the decedent fails to file a beneficiary designation with the administrator of these assets or the designation fails (for example, whoever was named dies before the decedent) the proceeds will often be treated as payable to the decedent's estate. This causes probate and often, negative tax consequences.

### **Joint Tenancy with Rights of Survivorship.**

This a form of ownership with multiple people. It allows the title to the property to pass to the surviving joint tenant(s) without probate when one of the owners dies. I call this the "last person standing" rule, because that is the person who will inherit the asset. This can be a dangerous form of ownership, because it will give current ownership rights to the joint tenant who may have contributed nothing to the asset. In that case, if the joint tenant were to go bankrupt, get divorced or simply abscond with the asset, the original owner may have difficulty recovering the property.

### **Tenancy by the Entirety.**

This is similar to joint tenancy except it is a form of ownership that only exists between husband and wife.

## **List of Estate Planning that Everyone Needs When Using a Revocable (Living) Trust**

- Adequate access to attorneys and/or paralegals to answer all questions during the estate planning process
- Revocable Trust or Joint Revocable Trust
- Memorandum of Trust
- Pour-Over Will
- Durable Power of Attorney for Financial Decisions
- Durable Power of Attorney for Health Care
- Oklahoma Advance Directive for Health Care
- Transfer Deed(s), as needed
- Full Asset Analysis for Correct Titling to the Trust
- An easy way to remember your Trust name (like a laminated wallet size card with the Trust name)
- Execution conference with two witnesses and a notary
- Continued access to your attorney and/or paralegals after the date of your execution conference to answer any questions about the funding your Trust (transferring your assets into your Trust.)

## **List of Estate Planning that Everyone Needs When Using a Will**

- Adequate access to attorneys and/or paralegals to answer all of your questions during your estate planning process
  
- Will
  
- Durable Power of Attorney for Financial Decisions
  
- Durable Power of Attorney for Health Care
  
- Oklahoma Advance Directive for Health Care
  
- Deed(s), as needed
  
- Full Asset Analysis for Correct Titling to Meet Client Goals
  
- Estate Funding Plan Memorandum or some sort of titling guidance tailored to the types of assets you have
  
- Execution conference with two witnesses and a notary
  
- Continued access to your attorney and/or paralegals after the date of your execution conference to answer any questions about the retitling your assets and filling in your beneficiary designations


[www.oscn.net](http://www.oscn.net)

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Title 15. Contracts

## 📁 Oklahoma Statutes Citationized

### 📁 Title 15. Contracts

#### 📁 Chapter 24 - Uniform Statutory Form Power of Attorney Act

#### 📄 Section 1003 - Statutory Form for Power of Attorney

Cite as: O.S. §. \_\_\_

### STATUTORY FORM FOR POWER OF ATTORNEY

A. The following statutory form of power of attorney is legally sufficient:

#### STATUTORY POWER OF ATTORNEY

NOTICE: THE POWERS GRANTED BY THIS DOCUMENT ARE BROAD AND SWEEPING. THEY ARE EXPLAINED IN THE UNIFORM STATUTORY FORM POWER OF ATTORNEY ACT. IF YOU HAVE ANY QUESTIONS ABOUT THESE POWERS, OBTAIN COMPETENT LEGAL ADVICE. THIS DOCUMENT DOES NOT AUTHORIZE ANYONE TO MAKE MEDICAL AND OTHER HEALTH-CARE DECISIONS FOR YOU. YOU MAY REVOKE THIS POWER OF ATTORNEY IF YOU LATER WISH TO DO SO.

I \_\_\_\_\_ (insert your name and address) appoint \_\_\_\_\_ (insert the name and address of the person appointed) as my agent (attorney-in-fact) to act for me in any lawful way with respect to the following initialed subjects:

TO GRANT ALL OF THE FOLLOWING POWERS, INITIAL THE LINE IN FRONT OF (N) AND IGNORE THE LINES IN FRONT OF THE OTHER POWERS.

TO GRANT ONE OR MORE, BUT FEWER THAN ALL, OF THE FOLLOWING POWERS, INITIAL THE LINE IN FRONT OF EACH POWER YOU ARE GRANTING.

TO WITHHOLD A POWER, DO NOT INITIAL THE LINE IN FRONT OF IT. YOU MAY, BUT NEED NOT, CROSS OUT EACH POWER WITHHELD.

#### INITIAL

\_\_\_\_\_ (A) Real property transactions.

\_\_\_\_\_ (B) Tangible personal property transactions.

\_\_\_\_\_ (C) Stock and bond transactions.

\_\_\_\_\_ (D) Commodity and option transactions.

\_\_\_\_\_ (E) Banking and other financial institution transactions.

\_\_\_\_\_ (F) Business operating transactions.

\_\_\_\_\_ (G) Insurance and annuity transactions.

\_\_\_\_\_ (H) Estate, trust, and other beneficiary transactions.

\_\_\_\_\_ (I) Claims and litigation.

\_\_\_\_\_ (J) Personal and family maintenance.

\_\_\_\_\_ (K) Benefits from Social Security, Medicare, Medicaid, or other governmental programs, or military service.

\_\_\_\_\_ (L) Retirement plan transactions.

\_\_\_\_\_ (M) Tax matters.

\_\_\_\_\_ (N) ALL OF THE POWERS LISTED ABOVE. YOU NEED NOT INITIAL ANY OTHER LINES IF YOU INITIAL LINE (N).

SPECIAL INSTRUCTIONS:

ON THE FOLLOWING LINES YOU MAY GIVE SPECIAL INSTRUCTIONS LIMITING OR EXTENDING THE POWERS GRANTED TO YOUR AGENT.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(Attach additional pages if needed.)

UNLESS YOU DIRECT OTHERWISE ABOVE, THIS POWER OF ATTORNEY IS EFFECTIVE IMMEDIATELY AND WILL CONTINUE UNTIL IT IS REVOKED.

This power of attorney will continue to be effective even though I become disabled, incapacitated, or incompetent.

STRIKE THE PRECEDING SENTENCE IF YOU DO NOT WANT THIS POWER OF ATTORNEY TO CONTINUE IF YOU BECOME DISABLED, INCAPACITATED, OR INCOMPETENT.

I agree that any third party who receives a copy of this document may act under it. Revocation of the power of attorney is not effective as to a third party until the third party learns of the revocation. I agree to indemnify the third party for any claims that arise against the third party because of reliance on this power of attorney.

Signed this \_\_\_\_\_ day of \_\_\_\_\_,  
19\_\_

\_\_\_\_\_  
(Your Signature)

\_\_\_\_\_  
(Your Social Security Number)

State of \_\_\_\_\_

(County) of \_\_\_\_\_

This document was acknowledged before me  
on

\_\_\_\_\_ (Date)

by \_\_\_\_\_  
(Name of principal)

\_\_\_\_\_  
(Signature of notarial officer)

(Seal, if any)

\_\_\_\_\_  
(Title and Rank)

My commission expires: \_\_\_\_\_

BY ACCEPTING OR ACTING UNDER THE APPOINTMENT, THE AGENT ASSUMES THE FIDUCIARY AND OTHER LEGAL RESPONSIBILITIES OF AN AGENT.

B. A statutory power of attorney is legally sufficient under this act, if the wording of the form complies substantially with subsection A of this section, the form is properly completed, and the signature of the principal is acknowledged.

C. If the line in front of (N) of the form under subsection A of this section is initialed, an initial on the line in front of any other power does not limit the powers granted by line (N).

***Historical Data***

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Laws 1998, SB 1122, c. 420, § 3, eff. November 1, 1998.

***Citationizer<sup>®</sup> Summary of Documents Citing This Document***

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Cite            Name Level

None Found.

***Citationizer: Table of Authority***

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Cite            Name Level

None Found.

# DURABLE POWER OF ATTORNEY (WITH HEALTH CARE POWERS ONLY)

**NOTICE:** The powers granted by this document are broad and sweeping. If you have any questions about these powers, obtain competent legal advice. Free legal information regarding construction of the powers granted by this document and completion of this form may be obtained by calling the Legal Services Developer, Aging Services, Oklahoma Department of Human Services, (405) 522-3069, or your local legal aid or legal services office. This document authorizes your agent to make medical and other health care decisions for you. You may revoke this power of attorney if you later wish to do so.

I \_\_\_\_\_  
(insert name and address)

appoint \_\_\_\_\_  
(insert name and address of the person appointed)

as my agent (attorney-in-fact) to act for me in any lawful way with respect to the following initialed subjects. If my agent is unable or unwilling to serve, I appoint \_\_\_\_\_

\_\_\_\_\_ (insert name and address)

as my alternate agent with the same authority.

**Once effective pursuant to section III on the back of this form, this power of attorney will continue to be effective even though I become disabled, incapacitated or incompetent, and shall not be affected by lapse of time.**

## I. Grant of Health Care Powers

To grant all of the following powers, initial the line in front of (f) and ignore the lines in front of the other powers.

To grant one or more, but fewer than all, of the following powers, initial the line in front of each power you are granting. To withhold a power, do not initial the line in front of it. You may, but need not, cross out each power withheld.

1. If I am unable to decide or speak for myself, my agent has the power to:

**Initial**

- \_\_\_\_\_ a. Make health and medical care decisions for me, including serving as my representative under the Oklahoma Do-Not-Resuscitate Act, but excluding signing an advance directive, making decisions reserved to a health care proxy under an advance directive, or other life-sustaining treatment decisions.
- \_\_\_\_\_ b. Choose my health care providers.
- \_\_\_\_\_ c. Choose where I live and receive care and support when these choices relate to my health care needs.
- \_\_\_\_\_ d. Review my medical records and have the same rights that I would have to give my medical records to other people.
- \_\_\_\_\_ e. Elect hospice treatment.
- \_\_\_\_\_ f. All of the powers listed above.

**You need not initial any other lines if you initial line (f).**

2. It is my intention that my agent's acts on my behalf are to be honored by my family members and health care providers as an expression of my legal right to manage my health care. The directions and decisions of my agent are superior to and shall take precedence over any decision made by any member of my family. To the extent appropriate, my agent may discuss health care decisions with my family and others to the extent they are available.

## II. Additional Guidance and Information

**NOTE:** This section, while very helpful to your agent, is optional and choices may be left blank.

a. My goals for my health care: \_\_\_\_\_

b. My fears about my health care: \_\_\_\_\_

c. My spiritual or religious beliefs and traditions: \_\_\_\_\_

d. My thoughts about how my medical condition might affect my family: \_\_\_\_\_

e. My thoughts about living and receiving health care at home versus in a nursing home or other institution: \_\_\_\_\_

Special Instructions: On the following lines, you may give special instructions limiting or extending the powers granted to your agent. \_\_\_\_\_

(Attach additional pages if needed.)

**III. When Power Becomes Effective**

Please initial one statement below regarding the effective date of this power of attorney.

**Initial**

\_\_\_\_\_ This power of attorney is effective immediately and shall continue until it is revoked.

\_\_\_\_\_ This power of attorney shall be effective when my attending physician determines that I am no longer able to manage my person. This determination shall be provided in writing and attached to this form.

I agree that any third party who receives a copy of this document may act under it. Revocation of the power of attorney is not effective as to a third party until the third party learns of the revocation. I agree to indemnify the third party for any claims that arise against the third party because of reliance on this power of attorney.

Signed: \_\_\_\_\_  
(principal's signature)

City County, and State of Residence

The principal is personally known to me and I believe the principal to be of sound mind. I am eighteen (18) years of age or older. I am not related to the principal by blood or marriage, or related to the attorney-in-fact by blood or marriage. The principal has declared to me that this instrument is his power of attorney granting to the named attorney-in-fact the power and authority specified herein, and that he has willingly made and executed it as his free and voluntary act for the purposes herein expressed.

**Witness:** \_\_\_\_\_

**Witness:** \_\_\_\_\_

STATE OF OKLAHOMA )  
) SS.  
COUNTY OF \_\_\_\_\_)

Before me, the undersigned authority, on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, personally appeared \_\_\_\_\_ (principal), \_\_\_\_\_ (witness), and \_\_\_\_\_ (witness), whose names are subscribed to the foregoing instrument in their respective capacities, and all of said persons being by me duly sworn, the principal declared to me and to the said witnesses in my presence that the instrument is his or her power of attorney, and that the principal has willingly and voluntarily made and executed it as the free act and deed of the principal for the purposes therein expressed, and the witnesses declared to me that they were each eighteen (18) years of age or over, and that neither of them is related to the principal by blood or marriage, or related to the attorney-in-fact by blood or marriage.

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

My Commission Expires: \_\_\_\_\_

**By accepting or acting under the appointment, the agent assumes the fiduciary and other legal responsibilities of an agent.**



# Advance Directive for Health Care

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This form is available in English, Spanish and Vietnamese at [okdhs.org/programsandservices/aging/legal](http://okdhs.org/programsandservices/aging/legal).

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If I am incapable of making an informed decision regarding my health care, I direct my health care providers to follow my instructions below.

## I. Living Will

If my attending physician and another physician determine that I am no longer able to make decisions regarding my medical treatment, I direct my attending physician and other health care providers, pursuant to the Oklahoma Advance Directive Act, to follow my instructions as set forth below:

1. If I have a terminal condition, that is, an incurable and irreversible condition that even with the administration of life-sustaining treatment will, in the opinion of the attending physician and another physician, result in death within six (6) months:

**(Initial one option only)**

\_\_\_\_\_ I direct that my life not be extended by life-sustaining treatment, except that if I am unable to take food and water by mouth, I wish to receive artificially administered nutrition and hydration.

\_\_\_\_\_ I direct that my life not be extended by life-sustaining treatment, including artificially administered nutrition and hydration.

\_\_\_\_\_ I direct that I be given life-sustaining treatment and, if I am unable to take food and water by mouth, I wish to receive artificially administered nutrition and hydration.

**(Initial if applicable)**

\_\_\_\_\_ See my more specific instructions in paragraph four (4).

2. If I am persistently unconscious, that is, I have an irreversible condition, as determined by the attending physician and another physician, in which thought and awareness of self and environment are absent:

**(Initial one option only)**

\_\_\_\_\_ I direct that my life not be extended by life-sustaining treatment, except that if I am unable to take food and water by mouth, I wish to receive artificially administered nutrition and hydration.

\_\_\_\_\_ I direct that my life not be extended by life-sustaining treatment, including artificially administered nutrition and hydration.

\_\_\_\_\_ I direct that I be given life-sustaining treatment and, if I am unable to take food and water by mouth, I wish to receive artificially administered nutrition and hydration.

**(Initial if applicable)**

\_\_\_\_\_ See my more specific instructions in paragraph four (4).

3. If I have an end-stage condition, that is, a condition caused by injury, disease, or illness, which results in severe and permanent deterioration indicated by incompetency and complete physical dependency for which treatment of the irreversible condition would be medically ineffective:

**(Initial one option only)**

\_\_\_\_\_ I direct that my life not be extended by life-sustaining treatment, except that if I am unable to take food and water by mouth, I wish to receive artificially administered nutrition and hydration.

\_\_\_\_\_ I direct that my life not be extended by life-sustaining treatment, including artificially administered nutrition and hydration.

\_\_\_\_\_ I direct that I be given life-sustaining treatment and, if I am unable to take food and water by mouth, I wish to receive artificially administered nutrition and hydration.

**(Initial if applicable)**

\_\_\_\_\_ See my more specific instructions in paragraph four (4).

4. Other.

Here you may: (a) describe other conditions in which you would want life-sustaining treatment or artificially administered nutrition and hydration provided, withheld, or withdrawn; (b) give more specific instructions about your wishes concerning life-sustaining treatment or artificially administered nutrition and hydration if you have a terminal condition, are persistently unconscious, or have an end-stage condition; or (c) do both of these.

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**II. My Appointment of My Health Care Proxy**

If my attending physician and another physician determine that I am no longer able to make decisions regarding my medical treatment, I direct my attending physician and other health care providers pursuant to the Oklahoma Advance Directive Act to follow the instructions of:

\_\_\_\_\_, whom I appoint as my health care proxy.

If my health care proxy is or becomes unable or unwilling to serve, I appoint:

\_\_\_\_\_ as my alternate health care proxy with the same authority.

My health care proxy is authorized to make whatever health care decisions I could make if I were able, except that decisions regarding life-sustaining treatment and artificially administered nutrition and hydration can be made by my health care proxy or alternate health care proxy only as I have indicated in the foregoing sections.

If I fail to designate a health care proxy in this section, I am deliberately declining to designate a health care proxy.

### III. Anatomical Gifts

Pursuant to the provisions of the Uniform Anatomical Gift Act, I direct that at the time of my death my entire body or designated body organs or body parts be donated for purposes of:

**(Initial all that apply)**

- transplantation therapy
- advancement of medical science, research or education
- advancement of dental science, research or education

Death means either irreversible cessation of circulatory and respiratory functions or irreversible cessation of all functions of the entire brain, including the brain stem. I specifically donate:

**(Initial all that apply)**

My entire body; or

The following body organs or parts:

- |  |                                       |   |
|--|---------------------------------------|---|
| <input type="checkbox"/> lungs         | <input type="checkbox"/> liver        | <input type="checkbox"/> arteries         |
| <input type="checkbox"/> pancreas      | <input type="checkbox"/> heart        | <input type="checkbox"/> glands           |
| <input type="checkbox"/> kidneys       | <input type="checkbox"/> brain        | <input type="checkbox"/> tissue           |
| <input type="checkbox"/> skin          | <input type="checkbox"/> bones/marrow | <input type="checkbox"/> eyes/cornea/lens |
| <input type="checkbox"/> bloods/fluids | <input type="checkbox"/> tissue       | <input type="checkbox"/> other            |

### IV. General Provisions

- a. I understand that I must be eighteen (18) years of age or older to execute this form.
- b. I understand that my witnesses must be eighteen (18) years of age or older and shall not be related to me and shall not inherit from me.
- c. I understand that if I have been diagnosed as pregnant and that diagnosis is known to my attending physician, I will be provided with life-sustaining treatment and artificially administered hydration and nutrition unless I have, in my own words, specifically authorized that during a course of pregnancy, life-sustaining treatment and/or artificially administered hydration and/or nutrition shall be withheld or withdrawn.
- d. In the absence of my ability to give directions regarding the use of life-sustaining procedures, it is my intention that this advance directive shall be honored by my family and physicians as the final expression of my legal right to choose or refuse medical or surgical treatment including, but not limited to, the administration of life-sustaining procedures, and I accept the consequences of such choice or refusal.

Continued on next page

- e. This advance directive shall be in effect until it is revoked.
- f. I understand that I may revoke this advance directive at any time.
- g. I understand and agree that if I have any prior directives, and if I sign this advance directive, my prior directives are revoked.
- h. I understand the full importance of this advance directive and I am emotionally and mentally competent to make this advance directive.
- i. I understand that my physician(s) shall make all decisions based upon his or her best judgment applying with ordinary care and diligence the knowledge and skill that is possessed and used by members of the physician's profession in good standing engaged in the same field of practice at that time, measured by national standards.

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_\_.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Residence (City, county and state)

\_\_\_\_\_  
Date of birth (Optional)

**This advance directive was signed in my presence.**

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Address

\_\_\_\_\_  
Address

\_\_\_\_\_  
City/State

\_\_\_\_\_  
City/State

**For assistance in filling out this form call (405) 522-3069.**



**GENERAL ESTATE OVERVIEW**

**30-Minute Consultation**

***This form must be filled in completely – no blanks – in order to have your free consultation scheduled. Every question affects the advice we give. A blank may indicate you merely overlooked a question, so please write “n/a” or zero “0” if a question does not apply to you, or if you do not have that particular asset.***

Name (*Client 1*): \_\_\_\_\_ Date of Birth: \_\_\_\_\_ Age: \_\_\_\_\_  
Marital Status (circle one): Single Married Divorced Widowed Email: \_\_\_\_\_

Name (*Client 2*): \_\_\_\_\_ Date of Birth: \_\_\_\_\_ Age: \_\_\_\_\_  
Marital Status (circle one): Single Married Divorced Widowed Email: \_\_\_\_\_

Address: \_\_\_\_\_

Phone (*Client 1*): home: \_\_\_\_\_ cell: \_\_\_\_\_ work: \_\_\_\_\_

Phone (*Client 2*): home: \_\_\_\_\_ cell: \_\_\_\_\_ work: \_\_\_\_\_

Date you attended Gale Allison’s speech: (*Client 1*) \_\_\_\_\_ (*Client 2*) \_\_\_\_\_

(*Client 1*): Currently employed at \_\_\_\_\_ Retired from what occupation \_\_\_\_\_  
Military background? (circle one) Yes No

(*Client 2*): Currently employed at \_\_\_\_\_ Retired from what occupation \_\_\_\_\_  
Military background? (circle one) Yes No

**FILL IN ALL THAT APPLY:**

(*Client 1*): Number of children, natural-born or adopted: # \_\_\_ living; their ages \_\_\_\_\_  
# \_\_\_ deceased # \_\_\_ surrendered for adoption

Number of grandchildren: # \_\_\_ belonging to my living children # \_\_\_ belonging to my deceased children

(*Client 2*): Number of children, natural-born or adopted: # \_\_\_ living; their ages: \_\_\_\_\_  
# \_\_\_ deceased # \_\_\_ surrendered for adoption

Number of grandchildren: # \_\_\_ belonging to my living children # \_\_\_ belonging to my deceased children

(*Client 1*): I have estate planning documents (check the boxes):  Will  Revocable Trust  Financial Power of Attorney  
 Health Care Power of Attorney  Advance Health Directive  Do Not Resuscitate

(*Client 2*): I have estate planning documents (check the boxes):  Will  Revocable Trust  Financial Power of Attorney  
 Health Care Power of Attorney  Advance Health Directive  Do Not Resuscitate

**ASSETS (List HOW MANY ( # ) and TOTAL APPROXIMATE VALUE. Write N/A if it does not apply):**

**NOTE: If your REVOCABLE TRUST owns the Asset, write “ T ” next to the Value.  
If you own the Asset JOINTLY, write “ J “ next to the Value.**

**Client 1** Bank Accounts: # \_\_\_ \$ \_\_\_\_\_ Certificates of Deposit: # \_\_\_ \$ \_\_\_\_\_  
Money Market Accounts: # \_\_\_ \$ \_\_\_\_\_ Brokerage Accounts: # \_\_\_ \$ \_\_\_\_\_  
Retirement: IRAs # \_\_\_ \$ \_\_\_\_\_ 401Ks # \_\_\_ \$ \_\_\_\_\_ Other retirement: # \_\_\_ \$ \_\_\_\_\_  
Annuities # \_\_\_ \$ \_\_\_\_\_ Life Ins. Policies insuring your life: # \_\_\_ Total life ins. death benefits \$ \_\_\_\_\_  
Individually Owned Stocks # \_\_\_ \$ \_\_\_\_\_ I have a Safe Deposit Box at \_\_\_\_\_  
Real Estate: Oklahoma # \_\_\_ \$ \_\_\_\_\_ Other States: # \_\_\_ \$ \_\_\_\_\_  
Mineral Interests: Oklahoma # \_\_\_ annual income \$ \_\_\_\_\_ Other States # \_\_\_ annual income \$ \_\_\_\_\_  
Automobiles: # \_\_\_ \$ \_\_\_\_\_ Boats or other vehicles: # \_\_\_ \$ \_\_\_\_\_  
Personal items such as jewelry, collections, household items: \$ \_\_\_\_\_  
Expected inheritance (describe): \_\_\_\_\_ \$ \_\_\_\_\_

Miscellaneous: \_\_\_\_\_

Approximately Debt/liabilities \$ \_\_\_\_\_ Approximate Net Worth \$ \_\_\_\_\_

**Client 2**

Bank Accounts: # \_\_\_\_\_ \$ \_\_\_\_\_ Certificates of Deposit: # \_\_\_\_\_ \$ \_\_\_\_\_

Money Market Accounts: # \_\_\_\_\_ \$ \_\_\_\_\_ Brokerage Accounts: # \_\_\_\_\_ \$ \_\_\_\_\_

Retirement: IRAs # \_\_\_\_\_ \$ \_\_\_\_\_ 401Ks # \_\_\_\_\_ \$ \_\_\_\_\_ Other retirement: # \_\_\_\_\_ \$ \_\_\_\_\_

Annuities # \_\_\_\_\_ \$ \_\_\_\_\_ Life Ins. Policies insuring your life: # \_\_\_\_\_ Total life ins. death benefits \$ \_\_\_\_\_

Individually Owned Stocks # \_\_\_\_\_ \$ \_\_\_\_\_ I have a safe deposit box at \_\_\_\_\_

Real Estate: Oklahoma # \_\_\_\_\_ \$ \_\_\_\_\_ Other States: # \_\_\_\_\_ \$ \_\_\_\_\_

Mineral Interests: Oklahoma # \_\_\_\_\_ annual income \$ \_\_\_\_\_ Other States # \_\_\_\_\_ annual income \$ \_\_\_\_\_

Automobiles: # \_\_\_\_\_ \$ \_\_\_\_\_ Boats or other vehicles: # \_\_\_\_\_ \$ \_\_\_\_\_

Personal items such as jewelry, collections, household items: \$ \_\_\_\_\_

Expected inheritance (describe): \_\_\_\_\_ \$ \_\_\_\_\_

Miscellaneous: \_\_\_\_\_

Approximately Debt/liabilities \$ \_\_\_\_\_ Approximate Net Worth \$ \_\_\_\_\_

**Check the boxes that apply:**

I am not a US Citizen:  (Client 1)  (Client 2) I have long-term care insurance:  (Client 1)  (Client 2)

I am a party to a restrictive agreement such as divorce settlement, prenuptial agreement, buy-sell agreement, etc.

(Client 1)  (Client 2)

We have lived in one of the following states while married to each other: California, Washington, Idaho, Nevada, Arizona, Texas, Louisiana, Wisconsin, or New Mexico

Describe any special needs situations with any beneficiaries you wish to name in your estate plan: \_\_\_\_\_

Describe any special circumstances unique to your estate planning or unusual assets (for example, property outside the US): \_\_\_\_\_

**Please sign your name as you would on legal documents:**

Date: \_\_\_\_\_ SIGNATURE (Client 1) \_\_\_\_\_

Date: \_\_\_\_\_ SIGNATURE (Client 2) \_\_\_\_\_

**IMPORTANT:**

- ❖ *As a speech attendee, you may receive a free 30-minute consultation with Schaffer Herring, PLLC. Your appointment must be held within **4 months of the speech** attended. This is so (we hope) you will not forget all that you have learned by attending, and we are often booked three months out. Submit this completed form right away if you wish to take advantage of this offer.*
- ❖ *Mail this completed form to the **Mailing Address** below prior to setting an appointment. **Your form must be complete for us to call you to schedule an appointment. Write N/A or zero ("0") if a question or asset does not apply to you.***

**Attach extra pages as you feel the need. Thank you for your interest in our firm.  
We look forward to discussing your estate planning needs with you.**

## THE EXECUTOR

*I had a friend who died and he,  
On earth so loved and trusted me,  
That ere he quit this earthly shore,  
He made me his executor.  
He tasked me through my natural life,  
To guard the interests of his wife,  
To see that everything was done,  
Both for his daughter and his son.  
I have his money to invest,  
And though I try my level best,  
To do that wisely, I'm advised,  
My judgment oft is criticized.  
His widow once so calm and meek,  
Comes, hot with rage, three times a week,  
And rails at me, because I must,  
To keep my oath appear unjust.  
His children hate the sight of me,  
Although their friend I've tried to be  
And every relative declares,  
I interfere with his affairs.  
Now when I die I'll never ask,  
A friend to carry such a task,  
I'll spare him all such anguish sore,  
And leave a hired executor.*

Edgar A. Guest, Today and Tomorrow (Chicago: Reilly & Lee Company, 1942)