

WILLS, ENDURING POWERS OF ATTORNEY AND PERSONAL DIRECTIVES PLANNING INSTRUCTION SHEET

TO BE PREPARED: (Please ✓)

Elmqvist Law Office Ph. 201-2711

WILLS(S) _____

EPA(S) _____

PERSONAL DIRECTIVE(S) _____

FOR OFFICE USE ONLY

DATE: _____

FEE QUOTE: _____

READY DATE: _____

FILE NO.: _____

PLEASE PRINT:

PERSONAL INFORMATION	<i>Marital Status:</i>
<p>FULL NAME: _____</p> <p><i>Variations to Name:</i> _____</p> <p>DATE & PLACE OF BIRTH: _____</p> <p>OCCUPATION: _____ BUS. PHONE: _____</p>	
<p>FULL NAME OF SPOUSE OR PARTNER: _____</p> <p><i>Variations to Name:</i> _____</p> <p>DATE & PLACE OF BIRTH: _____</p> <p>OCCUPATION: _____ BUS. PHONE: _____</p>	
<p>HOME ADDRESS: _____</p> <p>_____</p> <p style="text-align: right;"><i>Postal Code</i></p>	
<p>HOME PHONE: _____ HOME FAX: _____</p> <p>E-MAIL ADDRESS: _____</p>	

CHILDREN

CHILD'S NAME: _____

ADDRESS: _____

CHILD'S AGE _____ **OR DATE OF BIRTH: (If Under 18)** _____

MARRIED _____ **SINGLE** _____

CHILD'S NAME: _____

ADDRESS: _____

CHILD'S AGE _____ **OR DATE OF BIRTH: (If Under 18)** _____

MARRIED _____ **SINGLE** _____

CHILD'S NAME: _____

ADDRESS: _____

CHILD'S AGE _____ **OR DATE OF BIRTH: (If Under 18)** _____

MARRIED _____ **SINGLE** _____

CHILD'S NAME: _____

ADDRESS: _____

CHILD'S AGE _____ **OR DATE OF BIRTH: (If Under 18)** _____

MARRIED _____ **SINGLE** _____

Does your Spouse/Partner or any children suffer from any mental or physical disability? _____

If so, specify: _____

Do you have any other dependents? If so, give name and relationship:

Do you presently have a Will?

Yes: _____

No: _____

Does your spouse/partner have a Will?

Yes: _____

No: _____

If yes, where is it filed: _____

Are either of you presently a beneficiary of an estate or trust? If so, give particulars:

Have either of you set up a trust to benefit another person? If so, give particulars:

Do either of you have a marriage contract (eg. a Pre-Nuptial Agreement)? Please provide a copy. _____

Are either of you an Executor or Trustee or an Estate: Yes: ____ No: ____

If so, please give particulars: _____

Do either of you have your own accountant, financial advisor or life insurance agent? If so, specify details:

Do either of you own or have an interest in a business (i.e. sole proprietorship; partnership; limited company?) Provide copies of business agreements and give details.

Have either of you been married more than once? If yes, please provide copies of decree nisi and/or decree absolute, separation agreement, etc. _____

ASSETS & RETIREMENT PLANNING

We need to know the following information about the nature and value of your assets to properly structure your Will. Assets that are held in joint tenancy or otherwise designated for a specific survivor (i.e. life insurance, RRSPs) are usually not affected by your Will as they pass to the survivor or designated beneficiary. However, we require information about them since they affect your overall estate plan and must be co-ordinated with your Will.

****Please list approximate values****

RETIREMENT PLANNING

FIRST INDIVIDUAL

DO YOU OWN OR ANTICIPATE OWNING ASSETS OUTSIDE OF ALBERTA?

Name _____

YES ___ NO ___

Life Insurance.....\$ _____

Already Designated Beneficiary:

Spouse/Partner ___ Estate ___ Other ___

Update in Will to:

Spouse/Partner ___ Estate ___ Other ___

RRSPs.....\$ _____

Already Designated Beneficiary:

Spouse/Partner ___ Estate ___ Other ___

Update in Will to:

Spouse/Partner ___ Estate ___ Other ___

Pensions.....\$ _____

Already Designated Beneficiary:

Spouse/Partner ___ Estate ___ Other ___

Update in Will to:

Spouse/Partner ___ Estate ___ Other ___

Annuities.....\$ _____

Already Designated Beneficiary:

Spouse/Partner ___ Estate ___ Other ___

Update in Will to:

Spouse/Partner ___ Estate ___ Other ___

RETIREMENT PLANNING (Cont'd)

SECOND INDIVIDUAL	DO YOU OWN OR ANTICIPATE OWNING ASSETS OUTSIDE OF ALBERTA?
Name _____	YES ___ NO ___
Life Insurance\$ _____	
<i>Already Designated Beneficiary:</i>	
Spouse/Partner ___ Estate ___ Other ___	
<i>Update in Will to:</i>	
Spouse/Partner ___ Estate ___ Other ___	
RRSPs\$ _____	
<i>Already Designated Beneficiary:</i>	
Spouse/Partner ___ Estate ___ Other ___	
<i>Update in Will to:</i>	
Spouse/Partner ___ Estate ___ Other ___	
Pensions\$ _____	
<i>Already Designated Beneficiary:</i>	
Spouse/Partner ___ Estate ___ Other ___	
<i>Update in Will to:</i>	
Spouse/Partner ___ Estate ___ Other ___	
Annuities\$ _____	
<i>Already Designated Beneficiary:</i>	
Spouse/Partner ___ Estate ___ Other ___	
<i>Update in Will to:</i>	
Spouse/Partner ___ Estate ___ Other ___	

ASSETS

ASSET	JOINTLY	<u> </u> (Name)	<u> </u> (Name)
<i>Personal and Household Goods</i>	\$ _____	\$ _____	\$ _____
<i>Cars</i>	\$ _____	\$ _____	\$ _____
<i>Boats</i>	\$ _____	\$ _____	\$ _____
<i>Recreational Vehicles</i>	\$ _____	\$ _____	\$ _____
<u>REAL PROPERTY:</u>			
<i>Residence(s):</i>	\$ _____	\$ _____	\$ _____
<i>Farm Property:</i>	\$ _____	\$ _____	\$ _____
<i>Summer Cottage:</i>	\$ _____	\$ _____	\$ _____
<i>Other Property:</i>	\$ _____	\$ _____	\$ _____
<u>INVESTMENTS:</u>			
<i>Chequing Accounts:</i>	\$ _____	\$ _____	\$ _____
<i>Saving Accounts:</i>	\$ _____	\$ _____	\$ _____
<i>Investment Certificates</i>	\$ _____	\$ _____	\$ _____
<i>Bonds:</i>	\$ _____	\$ _____	\$ _____
<u>BUSINESS INTERESTS:</u>			
<i>Sole Proprietorships</i>	\$ _____	\$ _____	\$ _____
<i>Private Companies</i>	\$ _____	\$ _____	\$ _____
<i>Partnerships</i>	\$ _____	\$ _____	\$ _____
<i>Shareholder Agreements Yes _ No</i>			
<i>Specify details of any business interests: _</i>			
<hr/>			
<u>MISCELLANEOUS INTERESTS:</u>			
<i>Interests you presently have in other Estates and Trusts:</i>	\$ _____	\$ _____	\$ _____
<i>Jewellery, Hobbies, Antiques</i>	\$ _____	\$ _____	\$ _____
<i>Any Other Assets:</i>	\$ _____	\$ _____	\$ _____
_____	\$ _____	\$ _____	\$ _____
_____	\$ _____	\$ _____	\$ _____
_____	\$ _____	\$ _____	\$ _____
_____	\$ _____	\$ _____	\$ _____

<i>LIABILITY</i>	<i>JOINTLY</i>	_____ <i>(Name)</i>	_____ <i>(Name)</i>
<u>CONTRACTUAL:</u>			
Mortgage(s)	\$ _____	\$ _____	\$ _____
Bank Loans	\$ _____	\$ _____	\$ _____
Notes:	\$ _____	\$ _____	\$ _____
Leases:	\$ _____	\$ _____	\$ _____
Guarantees:	\$ _____	\$ _____	\$ _____
Contingent:	\$ _____	\$ _____	\$ _____
Income Tax:	\$ _____	\$ _____	\$ _____
Specify any details of the above: _____ _____ _____ _____ _____			

Your Will provides for the disposition of your estate as a result of death. Some assets are disposed of as a result of a joint tenancy relationship if one of the parties survives (eg. house, bank accounts) and some as a result of a designation (eg. life insurance, RRSP, etc.). Your estate plan co-ordinates all these ways of giving away your assets.

An Enduring Power of Attorney allows you to choose who will administer your financial affairs if you become mentally incompetent. It often covers that transitional period between competent personal management and death.

A Personal Directive allows you to choose who will make health care decisions for you when you are unable to do so.

IN THE FOLLOWING PAGES, PLEASE PROVIDE INSTRUCTIONS FOR EACH OF THESE THREE DOCUMENTS THAT YOU WISH TO COMPLETE.

DISPOSITION (Cont'd)

HOUSEHOLD GOODS: To children first? Yes _____ No _____

Specify: _____

Some people find it useful to make a list of their significant household goods and who is to receive them. This list can be included as part of your Will or completed after signing your Will as a Memorandum.

Memorandum to be made separate from Will? Yes _____ No _____

LEGACIES TO INDIVIDUALS OR CHARITIES: These are specific gifts, such as cash or specified land or gifts to charities. You may have a favorite charity you have contributed to during your lifetime or that has contributed in some way to your benefit to which you wish to leave a special legacy in your name (e.g. educational or medical institution, charities for medical research, etc.)

DISPOSITION OF RESIDUE: This is the remainder of your property.

If there are minor children (under 18) specify at what age(s) are they to receive their share without restrictions: (In the meantime funds can be used for their benefit, education, etc. as decided by your Trustee(s). As well, you may consider splitting the distribution to your minor children may be split (eg. 1/2 at 22 years and 1/2 at 25 years, etc.)

Majority _____ **22 Years** _____ **25 Years** _____ **Other** _____

If a child dies before receiving all of his/her share, does his/her share pass to that child's children:

Yes: _____ **No** _____

At what age: _____

IF NEITHER SPOUSE/PARTNER NOR CHILDREN SURVIVE, TO WHOM DOES THE RESIDUE PASS: Consider what will happen if your immediate family are killed in a common disaster - Give names, addresses and relationships to you.

GUARDIANS

You may appoint a guardian for your children in your place. Of course, if there are any questions as to whether this guardian appointment is in the best interests of your children, the appointment is always subject to review by the courts. The guardian has responsibility for the personal care of the minors, but the Trustee (Personal Representative, Executor) is usually given charge over the minor's assets. A guardian does not have to reside within Alberta, but because there may be immigration restrictions, we recommend that a guardian be appointed who resides in Canada.

Name(s) of Guardian(s): _____

Full Address: _____

Relationship to you: _____

Name(s) of Alternate Guardian(s): _____

Full Address: _____

Relationship to you: _____

FUNERAL AND DISPOSITION OF REMAINS

You should advise your family and Personal Representative of your wishes regarding your funeral and disposition of your body as frequently the Will is not read until after the funeral. **Also, the appropriate form on your Alberta Health Care Card should be signed by you if you wish to donate your body or organs.** These instructions may be confirmed in your Will, but are not legally binding on your Personal Representative.

Do you wish to donate your body or organs? If yes specify:

	_____ (Name)	_____ (Name)
For transplant purposes	Yes ___ No ___	Yes ___ No ___
For medical science (U of C)	Yes ___ No ___	Yes ___ No ___

Do you wish your remains to be:

	_____ (Name)	_____ (Name)
Buried	Yes ___ No ___	Yes ___ No ___
Cremated	Yes ___ No ___	Yes ___ No ___

Specify any specific funeral or burial instructions: _____

ENDURING POWER OF ATTORNEY

Whereas your Will addresses what will happen on death, an Enduring Power of Attorney (EPA) and a Personal Directive (PD) will be useful if you should become mentally incompetent to manage your own affairs. If you do not have an EPA, a dependent adult application (under the **Dependent Adults Act** (Alberta)) may need to be made for an order appointing a trustee to take care of your financial affairs.

An **EPA** may allow an attorney (the person to whom you grant the power) to exercise his or her power once the EPA is signed or alternatively, only upon you becoming mentally incompetent. You may appoint your spouse/partner or an adult child or adult children as your Attorney. In the event the primary attorney is not available, you may appoint an alternate. If you choose to have more than one attorney at a time, they can be required to act together (jointly) or they can be permitted to act individually.

ATTORNEY

Joint Attorneys: _____

Act as Alternates: _____

Name of First _____

Address of First Attorney _____

Postal Code

Name of Second (or Alternate) Attorney: _____

Address of Second Attorney: _____

Postal Code

Name of Third (or Alternate) Attorney: _____

Address of Third Attorney: _____

Postal Code

EFFECTIVE DATE

Your EPA may be effective upon execution, or if you wish, you may specify that the Power of Attorney come into effect only upon the occurrence of a specific contingency, including mental incapacity or infirmity.

EFFECTIVE UPON EXECUTION: YES _____ NO _____

EFFECTIVE UPON INCAPACITY: YES _____ NO _____

Capacity is to be determined by:

Certificate of Two Medical Practitioners (most common) _____ (✓)

Certificate of One Medical Practitioner _____ (✓)

Certificate of Majority of Spouse/Partner and/or Children _____ (✓)

Other: (please specify) _____

EPA (Cont'd) POWERS

Your Attorney "can do anything to or on your behalf that you could lawfully do by attorney". These are very wide powers. In addition, however, you may want to specify the following:

- Maintenance and Advancement of Spouse/Partner and/or Minor/Disabled Children** Yes _____ No _____
- Deal in any land (including mortgages, leases, etc.)** Yes _____ No _____
- Make Charitable Donations** Yes _____ No _____
- Gifts to Spouse/Partner and/or Children & Grandchildren** Yes _____ No _____
- Power of Employ Agents** Yes _____ No _____
- Maintenance and Advancement of Other Family** Yes _____ No _____
- Manage Income Taxes** Yes _____ No _____
- Manage any Business** Yes _____ No _____
- Broad Investment Powers** Yes _____ No _____
- Distribute personal property** Yes _____ No _____

Maintenance of a family member (e.g. a parent who will require financial assistance from you) Specify _____

Any other special powers (specify): _____

CONDITIONS/RESTRICTIONS:

It is recommended that there be few restrictions or conditions on the Power of Attorney since some financial institutions may refuse to accept such a power of attorney. However, you may not want your attorney to be able to deal with some assets.

Do you have any specific condition or restriction you wish placed on your Attorney?

Yes _____ No _____

REMUNERATION FOR ATTORNEY:

You may wish to specify whether your Attorney is to be paid for his or her services as your Attorney. This may be done in a number of ways:

Do you wish your Attorney to be remunerated: Yes _____ No _____

If yes:

1. As a Trustee would be allowed under the Alberta Trustee Act (most common) Yes _____ No _____

or
2. Hourly Rate (specify amount) _____

or
3. % of Value of Estate _____

or
4. Other - please specify _____

PERSONAL DIRECTIVE

Pursuant to the **Personal Directives Act** (Alberta) proclaimed on December 1, 1997, you can make one or more Personal Directives which will provide instructions and information affecting matters relating to personal matters, such as health care, accommodation, whom you may live and associate with, participation in social, education and employment activities, and any non-financial legal matters such as providing consent for the release of medical records. Personal Directives have generally been considered "Living Wills" that pertain to patients with terminal conditions who are unable to express their treatment wishes. Under the new legislation, however, a Personal Directive will also be relevant to the day to day treatment of a patient who can still express wishes and who may be otherwise healthy but has been found to be legally incompetent. This legislation allows for maximum flexibility when leaving instructions about how, and by whom, you wish decisions to be made on your behalf. Your Personal Directive may contain information and instructions with respect to (1) the designation of Agents (that is the person or persons acting for you) and their authority, (2) who determines your capacity, (3) persons who are and who are not to be notified of the coming into effect of the Personal Directive, and (4) access to confidential information about you.

YOUR AGENT

Your Agent is the person or persons you designate to make the personal decisions on your behalf. For example, you may appoint your spouse/partner and/or any one or more of your children or close family members to be your agent. He or she must be over the age of 18 years and must follow any clear instructions provided by you that are relevant to the personal decision(s) to be made. In the event the primary agent is unable or unwilling to act, you may appoint an alternate.

Joint Agents: _____ **Act as Alternates:** _____

Name of First Agent _____

Address of First Agent _____

Name of Second (or alternate) Agent _____

Address of Second (or alternate) Agent _____

Name of Third (or alternate) Agent _____

Address of Third (or alternate) Agent _____

EFFECTIVE DATE

Your Personal Directive will come into effect only when you lack capacity with respect to a personal matter. Your incapacity may be determined by a person whom you choose (which may or may not include your agent), or by two service providers. You may wish to select someone (a friend or family member) to make this judgement. Your Agent will have to consult with a psychologist or a physician before making such a determination. If you do not appoint someone to determine when you are no longer capable of making your own decisions, this will be done by two service providers, one of which must be a physician or psychologist.

CAPACITY TO BE DETERMINED BY:

Certificate by two service providers: (most common)
(at least one of whom is a physician or psychologist) Yes _____ No _____

or
Certificate by two physicians Yes _____ No _____

or
Certificate by Agent
(after consultation with physician or psychologist) Yes _____ No _____

or
Certificate by Other
(after consultation with physician or psychologist) Yes _____ No _____

PERSONAL DIRECTIVE CONT'D
AGENT'S AUTHORITY

Your Agent has authority to make decisions for all your personal matters. You may, however, be specific as to additional decisions you wish your Agent to make on your behalf. His or her decisions will be based on what he or she believes you would have made in the circumstances based on his or her knowledge or your wishes, beliefs and values. If your Agent does not know what your wishes, etc. are, he or she will make decisions that would be in your best interests. If you wish your Agent to make decisions in a manner different from what is outlined in the Act, you must clearly specify this in your Personal Directive. Some matters to be considered are as follows:

BROAD POWERS

Yes ___ No ___

In addition:

1. No heroic measures - (with no reasonable expectation of recovery, you be allowed to die and not be kept alive by medication, artificial means of "heroic measures" with medication to be given to alleviate suffering even if it should shorten your remaining life

Yes ___ No ___

2. Any general instructions

RESTRICTED POWERS (not common)

Yes ___ No ___

Please specify which of the following your Agent may only deal with:

Health Care

Yes ___ No ___

Accommodation

Yes ___ No ___

Participation in social, educational and employment activities

Yes ___ No ___

Legal Matters (non-financial) (e.g. consent to release medical records)

Yes ___ No ___

Other (specify)

Yes ___ No ___

Your Agent is not allowed to direct your participation in the following. You must state specifically in your Personal Directive if you wish any one or more of the following decisions to be made by your Agent:

Psychosurgery as defined by the Mental Health Act

Yes ___ No ___

Sterilization not medically necessary to protect my health

Yes ___ No ___

Removal of tissue from my living body for:

Implantation of another living person

Yes ___ No ___

(Human Tissue Act); or

For medical education or research purposes

Yes ___ No ___

Participation in research or experimental activities

Yes ___ No ___

(if participation offers little or no potential benefit to me)

Yes ___ No ___

Any other specific matter:

Yes ___ No ___

(for example no blood or blood products)

Specify: _____

**PERSONAL DIRECTIVE CONT'D
RESTRICTIONS**

You may wish to place some restrictions on decisions being made by your Agent. If so, please specify:

NOTIFICATION

Within a reasonable period of time after the Personal Directive comes into effect, your Agent(s) must notify your nearest relative and your legal representative, if you have one. A legal representative includes an Attorney under the Powers of Attorney Act or a guardian or trustee under the Dependent Adults Act. You may, as well, specify who is or who is not to be notified.

Notify the following person(s):

DO NOT notify the following person(s):

REMUNERATION FOR AGENT

Your Agent is not entitled to receive any remuneration for exercising any authority under the Personal Directive unless the Personal Directive so provides.

Do you wish your Agent to be remunerated: Yes ___ No ___

If yes specify (note this may be for reasonable expenses only, or you may wish your Agent to be paid for their services): _____

**ACCESS TO CONFIDENTIAL
INFORMATION**

There may be a few situations where you would not wish your Agent to have full access to information about you. If there are things you do not want one or all of your Agents to know, this restriction should be placed in your Personal Directive. You may also want to make a specific directive stating which portion of the information is to be restricted and give this to the individual or organization holding such records.

Do you wish your Agent to have full access to confidential information? Yes ___ No ___

If no, please specify: _____
