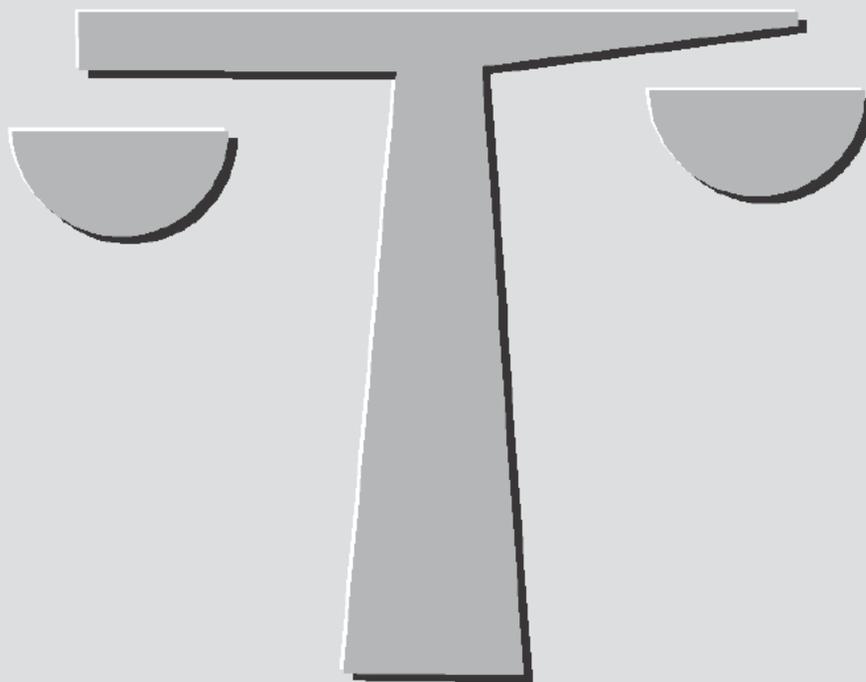


**PREPARING YOUR
OWN WILL
AND OTHER PLANNING TOOLS**



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IMPORTANT NOTICE: READ THIS INFORMATION BEFORE USING ANY PART OF THIS PUBLICATION

This booklet is a general summary of the law. It is not meant to completely explain the subjects in this booklet. IT IS NOT A SUBSTITUTE FOR LEGAL ADVICE.

The information in this booklet was correct as of the date it was printed (see the back cover). The laws may have changed. DO NOT ASSUME THAT THE INFORMATION IN THIS BOOKLET IS NOW CORRECT.

You should see a lawyer to get complete, correct, and up-to-date legal advice. Do not rely on the general information in this booklet for your specific case.

If you need a lawyer but can't afford one, contact Iowa Legal Aid. You may be able to get free legal help. Call or write Iowa Legal Aid. The address and phone numbers are on the back cover.

**AS YOU READ THIS BOOKLET, REMEMBER IT IS NOT
A SUBSTITUTE FOR LEGAL ADVICE**

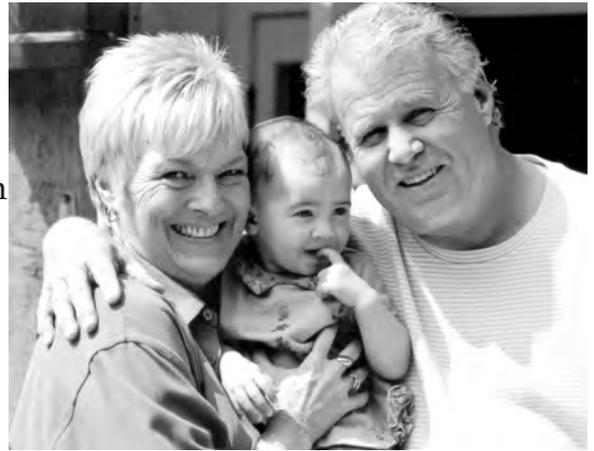
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Introduction

Having a will can make it easier for your family and loved ones to handle your property when you die. Some people with a small amount of property can write their own wills. This booklet is to generally inform about wills and to help some people write their own “simple” wills.



People should not write their own wills if they:

1. Have a large amount of property;
2. Wish to leave property in trust;
3. Have enough property that special taxes may be owed;
4. Have a hard time understanding this booklet;
5. Think their will may be contested after their death;
6. Are leaving property to minor children;
7. Want to exclude a spouse or child from receiving any part of the estate;
8. Have questions about their property (status of title, value, etc.);
9. Have property located outside of Iowa; or
10. Have questions not answered by this booklet.

This booklet tells how to prepare a simple will. It does not deal with probate. “Probate” means a formal court proceeding to decide if a will is valid and the process of administering an estate. The following kinds of probate questions should be discussed with an attorney.

Is it likely my estate will need to be probated?

What is involved in probate?

How long does probate take?

What are the costs of probate?

Probate can often be avoided if:

1. Persons who are to get property agree on the distribution of the property if there is no real estate and the value of the estate is less than \$25,000; and
2. All bills and debts are settled or paid; and
3. No real estate is involved or it is held in joint tenancy with right of survivorship; and
4. Beneficiaries are named for insurance policies and bank and investment accounts.

This is a very general statement. If you have any specific questions, ask a lawyer.

This booklet is based on 2011 Iowa law, and should only be used by Iowa residents whose property is located in Iowa. NO PERSON SHOULD WRITE A WILL BEFORE READING THIS ENTIRE BOOKLET!

What is a will?

A will is a formal statement telling how to dispose of your property after you die. In addition to disposing of property, your will can contain other instructions. For example, a will may say who you want to care for your minor children.

The person writing the will is called the *testator*. Nothing happens under a will until you die. You can give away or sell your property at any time before death, even if the will says it goes to someone else. You can change or revoke your will during your life as long as you are mentally able.

Why have a will?

A will has many planning advantages. **First**, a will lets you choose who will get your property and how much each will get. If you do not have a will (intestacy), state law will distribute your property. If this happens, your property may not go to whom you want. Note that a will only distributes your property if you have not arranged for it to be distributed in some other way, such as in a trust or by naming someone as a joint owner or a beneficiary.

Second, a will lets you name who you want to carry out your wishes. This person is called the “executor” and should be a person you can trust. If you do not appoint an executor, the court can appoint someone. The executor does not need to have a business background or special legal knowledge. Your executor can hire a lawyer or accountant to help settle the estate. Your estate will pay for these services.

Third, a will lets you decide if you want to “waive” or not require a bond. A bond is like an insurance policy. It protects the estate from losses caused by the executor. If your estate is probated, Iowa law may require purchase of a bond. A bond is required if you don’t have a will or if your will doesn’t waive the bond requirement. The cost of a bond is paid from your estate before any property is distributed. If you trust your executor and waive the bond, your estate can save that expense.

Fourth, a will can give special powers to your executor. Special powers can help save money. For example, special powers can allow the executor to take advantage of all possible tax breaks and allow the executor to act without first obtaining court approval.

Fifth, if you have minor children, a will lets you say who you want to be their guardian. It also permits you to nominate a conservator or trustee to protect the property interests of young or disabled children. See a lawyer if you have questions about using a will to name a guardian or conservator or to establish a trust.

What if you do not have a will?

Many people do not have a will. If you die without a will, Iowa's "intestacy" laws apply to property included in your "estate." As noted earlier, your "estate" does not usually include jointly-owned property, property in a trust, or property for which you name a beneficiary. These laws are applied regardless of what your wishes may have been. If you do not have a will, Iowa's intestacy laws would distribute your estate as follows:

- If you are married, and you either have no children or all of your children are also your spouse's children, then your spouse will receive all of your property.
- If you have children that are not your spouse's children, then your spouse will receive all of your exempt personal property, and one-half of all other real and other personal property. If this property does not equal at least \$50,000, then your spouse will receive additional property to make the spouse's share equal to at least \$50,000. The remaining property will be divided equally among your children. If a child has died, that child's children will receive the child's share.
- If you have no spouse when you die, then all of your property will go to your children in equal shares. If a child has died, that child's children will share the child's share, and so on down the line. If you have no descendants, then your estate goes to your parents. If you have no living parents, then the estate goes to your parent's closest descendants; i.e., first your siblings, then your nieces and nephews, etc. If there are no such relatives, then the estate goes to your grandparents and down from there. If you have none of these relatives, then your estate goes to the descendants of your deceased spouse. If there are no such descendants, then your estate goes to the state of Iowa.

Who can make a will?

Any person of full age and sound mind can make a will. To be of full age, you must either be more than eighteen (18) years old or at least sixteen (16) years old and married. The factors that determine sound mind or mental capacity are:

- Knowledge and understanding of the nature and amount of property you own;
- An understanding and an ability to remember the people who are close to you and who may have a claim to property under your will;
- An understanding that you are making a will; and
- Freedom from any delusions or hallucinations.

Who should not make their own will?

Some people should not make their own will. You should **NOT** make your own will if you:

- Wish to leave property in trust.
- Are leaving property to minor children.
- Have an estate with complicated tax issues.
- Have difficulties understanding this booklet.
- Want to exclude your spouse or children from receiving any part of your estate.
- Have questions about your property (status of title, value, etc.).
- Are married and do not know the location of your spouse.
- Have questions not answered by this booklet.
- Think your will may be contested after your death.
- Have any doubts about your mental capacity to make a will.

Will your estate be taxed?

The taxation of your estate is a complex area of the law. The transfer of estate property may be subject to an Iowa inheritance tax and a federal estate tax. However, each of these taxes provides certain exemptions and deductions. As a result, some estates are not taxed at the federal level. The Iowa inheritance tax is based on the amount of property distributed and the relation of the person receiving the property to the person who died.

- **State Inheritance Taxes**

The state of Iowa does not charge any inheritance tax on property you leave to your surviving spouse, child, step-child, grandchild or other lineal descendants. Inheritance tax is also not charged on your parents, grandparents, great-grandparents or other lineal ascendants. Iowa does impose an inheritance tax on money or property you leave to your brother, sister, aunt, uncle, in-laws or other relatives, friends and other unrelated individuals.

- **Federal Estate Taxes**

The federal government does not impose any tax on the portion of a deceased person's estate that goes to their spouse. The portion of an estate that goes to persons other than a spouse may be subject to federal tax if it exceeds \$5,000,000 (this amount changes but was correct at the time this booklet was printed). If your property is now worth more than \$5,000,000, or if it may be worth more than that *at the time of your death*, you should **NOT** write your own will.

How To Make Your Own Will

A will can be typed or handwritten. If the will is handwritten, it should be in ink. A will should be written or typed on clean sheets of paper. It is important for you to *clearly* set out your wishes. Your will should not have eraser marks or cross-outs. A court may interpret erasures and “cross-outs” as someone else’s attempt to change your will without your consent. You should re-type or rewrite the will if you make an error. Take the time to get it perfect! Throw away all except the final draft.

What To Include In Your Will

Some common will clauses include those listed below. (A sample will is provided at Appendix C of this booklet.)

Title. Most wills start with the title at the top of the page. Simply say “Last Will and Testament of (fill in your name).”

Introduction and Publication Clause. The first clause should identify you as the maker of the will. It lets people know that you intend the document to be your will. This clause also normally includes the city and state in which you live, as well as any other names or nicknames by which you have been known. It should also say that you are of sound mind and are preparing this will voluntarily. The first clause should also say you are revoking all wills or codicils (amendments to wills) which you have previously signed.

State important names. You should include the name of your spouse, your children or any other important individual that may receive property and be referred to in your Will.

Payments of debts and funeral expenses. Many persons include a clause in their will providing that final debts be paid before property is divided. Debts could be expenses of your last illness, funeral costs and probate costs. By law, your debts must be paid before any other distributions.

Who gets what. The next clauses should say who should receive your property. You may give real property (land, buildings, and crops), as well as personal property, (money, jewelry, furniture) to specific persons. If you want to limit ownership to less than full title to the property, (for example, if you want to allow someone to have control and use of property for their life) then you should NOT prepare your own will. (Remember, if you own property jointly, name a beneficiary to receive property, or place property in a trust, it will not be distributed under your will.)

- **Your spouse**

Although you are generally free to leave your property to any person or entity, Iowa law permits your spouse to claim approximately one-third (1/3) of your real property, all personal property exempt from the claims of creditors and one-third (1/3) of all other personal property of your estate if you leave your spouse less than that in the will.

- **Your children**

Iowa law does not require that you leave anything to your children. If you leave your children or someone else out of your will who most people think would deserve or expect a share, you should specifically name that person and that you intended for him or her to receive nothing. If you do not follow this procedure, the person left out may try to challenge or “contest” your will on grounds that you simply forgot about them.

- **Ways to give your property away.**

It is important to use clear language to express your intent. If you give all your property to one person, you may make a general statement that the person is to receive “all of my property.” If two or more persons are to share in your estate, you can state the specific property that each are to receive or the dollar or percentage amount to be given to each. If you want all the persons to receive the same amount, you can say your property is to be distributed to the named persons “in equal shares.” Any combination of the above disposal techniques may also be used.

If you want only the named individual to receive certain property, you must say that the named individual must survive you. Example: “I direct that my mother’s diamond wedding ring with gold setting go to my brother, Andrew T. Johnson, if he survives me.” If the person dies before you, your will can say that the property be left to another person. The will could also specify that it pass under the residuary clause, (see explanation below). As a general rule, if your will does not state that a named individual must survive you to receive property, then the property will go to that person’s surviving children or other descendants. The only exception to this is if the individual you are naming is your spouse. Thus, if you name your spouse in your will and she does not survive you, the property will *not* go to your deceased spouse’s descendants. This exception helps to avoid problems if there are children from previous marriages.

If you leave specific property in your will that you no longer own at death, that provision will not be effective. For example, suppose your will leaves your 1965 Mustang automobile to John Smith, but you end up selling the Mustang and buying a different car before you die. If this happens, John Smith will not receive

the Mustang since you no longer own it. You must thus carefully consider the types of gifts you intend to make in your will. For instance, in the example above, you may want to leave your “car” instead of your “1965 Mustang.”

- **Use of a Written List.**

Your will may refer to a written statement, letter, or list of certain items of tangible personal property which are to be given to certain people. Iowa’s law allows you to change those statements, letters, or lists from time to time without making a new will, as long as the lists are specifically referred to in a will. This is a very useful feature because it allows you to change your distributions of property like jewelry, cars, tools, furniture and mementos without having to redo your will. (See Appendix E for Sample List)

- **Residuary Clause.**

A residuary clause is a catch-all clause. It distributes any property which has not specifically been disposed of under other paragraphs of the will. This clause will ensure that you have not forgotten some property. It will cover property which you acquire after making the will and therefore not mentioned in the will. ***All wills should contain a residuary clause.*** A general statement that the remainder of your estate goes to a specified person or persons is sufficient. As discussed previously, if you want named individuals to be alive in order to receive the distribution, you will need to specifically say this. Otherwise the distribution will go to the surviving children or other surviving descendants of the named person, unless the named person is your spouse.

Appointment of an Executor: In a separate paragraph of your will you may name a friend or relative as your executor. Some banks also have trust departments that can serve as an executor. Before naming a bank as executor, however, you need to find out if the bank performs that kind of service. Under Iowa law your executor is entitled to receive a fee, but it is often waived when family members serve. The fee is set by the court and can equal up to approximately 2% of the value of your estate. It is the executor’s duty to carry out the terms of your will. Some people also name an alternate executor in case their first choice is unable to serve. The person you appoint should be willing to perform the duties of executor. Be sure to discuss the matter with the person you wish to appoint. If your estate needs to be probated, and you have appointed a non-resident of Iowa as your executor, the Court may also require a resident co-executor. People often choose executors who are capable and trusted. If you choose someone you trust, you may save your estate the expense of a bond. A bond helps ensure an executor is trustworthy. Iowa law requires a bond unless you specifically waive it in your will.

Testimonium clause. After you have completed the above provision, a “testimonium” should be made. This clause is a brief statement that you signed the will freely and voluntarily. You might, for example, say “I have signed my name this _____ day of _____, 20____, as a free and voluntary act for the purposes set out in this will.”

Testator’s signature blank. Directly beneath the testimonium clause should be a place for you to sign the will. NOTE: the individuals who will be acting as witnesses must be present for and together observe your signing (“execution”) of the will.

Testator’s initials on any page(s) not signed. The testator should initial each page not signed simply because it’s too easy for someone to change a will and insert a new page.

Attestation clause of witnesses. Witnesses to a will must state they have witnessed the signing of the will in the presence of one another and at the request of the testator. The form of the statement can vary. It should be placed on the same page and directly below the space provided for your signature. The witnesses’ statement (attestation clause) might read as follows:

“On this ____ day of _____, 201____, John Smith to us declared the foregoing instrument to be his will, requested us to witness his execution of this will and he then signed this will. In his presence and in the presence of each other we now sign our names as witnesses.”

Blank lines should then be provided where each witness can sign his/her name and record his/her address. Either two or three sets of lines should be provided, depending upon the number of witnesses you have selected. A minimum of two witnesses is required in Iowa.

Self-proving affidavit. You should also prepare a sworn statement (an “affidavit”) for you (the testator) and the witnesses to sign to possibly avoid the necessity of the witnesses having to go to court after your death to testify to the procedures followed in signing and witnessing the will. This is **critically** important to help ensure the will is enforceable. The affidavit is made under oath and must be signed in the presence of a notary public. The form for this affidavit is in the Iowa statutes. (See Appendix D for a sample affidavit)

Page numbers. Each page of a will should be numbered. This avoids possible confusion if pages of the will become separated. For absolute clarity it is good to indicate the total number of pages as well as the page number. For example, “Page 2 of 3” if your will consists of three pages.

Signing or Executing Your Will

Choosing your witnesses. Iowa law requires that each will be witnessed by two persons. Witnesses must be sixteen years of age or older. It is best to use neighbors, friends or other people you know as witnesses. Do *not* use any person who would receive property under the terms of the will. If such an “interested” person signs as a witness and if there are not two other ‘disinterested’ witnesses, the interested witness can only receive as much of your property as they would have received had you died without a will. Other people that are not recommended as witnesses are persons unable to understand or remember the signing of the will, elderly people, out-of-state people, and people who travel a lot or are generally hard to find. Such people may not be around to testify if necessary.

Signing. Once you have all your witnesses together in one room, you are ready to sign the will. The testator and the witnesses will be signing the will in two places: once at the end of the body of the will and once after the self-proving affidavit.

You, as the maker of the will, should announce to all the witnesses that:

- The document before them is your last will and testament, and
- You are requesting them to be witnesses. (Witnesses do not have to read your will or know its contents.)
- You should then sign and date your will on its last page in the presence of all the witnesses. Show each witness your signature and then have each witness sign the will in your presence and in the presence of the other witnesses. All signatures must be on the same page of your will, and should be written in ink. The signing requirements are very important and should be strictly followed. You should also sign and have the witnesses sign the self-proving affidavit in the presence of a notary public at this time.

Changing Or Revoking Your Will

Once you have made a will, you should review it periodically for possible changes. You should consider changes to your will when the following events occur:

- You change who you want to inherit your property.
- You get married or divorced.
- A child, grandchild or other person whom you might wish to make a beneficiary is born, adopted, or reaches the age of majority.
- A spouse, child, or other beneficiary of your will dies or has a serious illness.
- You have a substantial change in the size of your estate.
- You acquire property in another state.
- Tax, property, probate or trust laws change.
- You move to another state.

To change your will, you cannot simply write in the changes or cross out parts of it. If you do this, all or part of your will may be voided. However, you have several choices as to what you may do.

You might want to revoke the entire prior will and write a new will. To revoke a will you can tear it up, or otherwise destroy it. A new will can then be written by following the procedures in this booklet.

Executing a new will can also revoke the prior will and codicil simply by stating in the new will that you are revoking prior wills and codicils.

If you do not want to revoke the entire will, but want to change parts of it, you may want to prepare and sign a codicil. A codicil is a supplement or amendment to a will. Its purpose is to change an existing, validly executed will.

The codicil should be titled as a codicil and should identify the will which it is changing. This can be done by referring to the date of the prior existing will. The codicil should then list all changes to be made. The codicil should then be signed and witnessed using the same procedures as those for signing and witnessing a will. It is important to keep the codicil with the will it is supplementing. A sample codicil is provided at Appendix F of this booklet.

Remember, if you get divorced, remarry or have children, you should change your will to reflect the changes. Marriage or divorce can result in revoking or voiding part or all of your will. For example, any provisions in your will in favor of your ex-spouse are revoked when the divorce is final.

Where To Keep Your Will

There are a number of places to keep your will. You may keep it with your other personal papers; a fire-proof box may work best. You may leave it with a child, friend, or the person named as executor. You might wish to leave it with the clerk of probate court. Many people put their wills in their safe deposit box. This may not be a good idea unless someone you trust will be able to easily access the box after your death. Wherever you put it, make sure that the place is accessible and that you tell one or more people where it is. If you have copies of your will, each copy should give the location of the original will.

If You Lose Your Will

If you lose your will, make another one. Do not assume a lost will is going to magically appear upon your death. Iowa law presumes that a lost will has been destroyed by the testator with the intention of revoking the will. If it is not found, your property will be distributed as if you never had one.

Conclusion

It is possible for a person to prepare his/her own will, however it is not always advisable. You must make certain that you have first read and understand all parts of this booklet. In addition, be certain to closely follow the instructions in this booklet. If you do have problems or do not understand any part of this booklet, contact your attorney.

If you follow these simple steps, you can prepare a simple will. Completing the project will give the peace and comfort of knowing you have planned for the future.

Other Planning Issues - Powers Of Attorney and Living Wills

In putting your legal affairs in order, you should consider three other planning tools in addition to your Will. Those tools are:

- Financial Power of Attorney,
- Healthcare Power of Attorney, and
- Living Will.

These tools can reduce the burdens on family and loved ones in the event you have health issues and are not able to make your own financial and healthcare decisions.

Financial Power of Attorney. A financial power of attorney allows another person (called the “attorney-in-fact”) to make your financial decisions. A financial power of attorney can be very general and allow the attorney-in-fact to make almost any financial decision. It can also be very limited and only allow specific decisions or actions. A financial power of attorney may be effective either: (a) immediately, (b) for a specific or limited time, or (c) when your physician says you cannot make your own financial decisions. As long as you have a trusted family member or friend to act for you, a power of attorney is a simple, low-cost way for someone to take care of your finances. Trust is important because no one oversees the actions of the person you appoint. While you can cancel a power of attorney at any time, if your attorney-in-fact acts improperly, no one may know until it is too late. If you think it would be better to have a court oversee your finances, you can request a voluntary conservatorship. Without a financial power of attorney or a voluntary conservatorship, your family or friends would have to hire an attorney and ask a court to appoint a conservator to take care of your finances. This involves time and expense that most people want to avoid. You should see an attorney for assistance with a financial power of attorney.

Healthcare Power of Attorney. A health care power of attorney lets you name someone to make health care decisions for you if you can't make them yourself. For example, if you are unconscious from an accident or illness, the person you name can make

treatment decisions for you. Without a health care power of attorney, your doctor will usually consult with your family about health care decisions. If you do not have family or they cannot be reached, a guardianship might be needed. As with a conservatorship, a guardianship requires the time and expense of a court proceeding and attorney fees.

Living Will. A living will is a written document in which you authorize health care providers to withdraw life-sustaining procedures if you are in a terminal condition. An example would be if you were in the final stages of cancer. Without a living will, others will decide if life-sustaining procedures will be used.

See Appendices G and H for sample Health Care Power of Attorney and Living Will forms.

APPENDIX A – CHECKLIST

Here is a checklist to use to prepare and sign your will.

YES NO

- | | | |
|-----|-----|--|
| ___ | ___ | 1. Did you read this entire booklet? |
| ___ | ___ | 2. Did you understand all sections of this booklet? |
| ___ | ___ | 3. Will your estate be small enough at your death to avoid federal estate tax consequences? |
| ___ | ___ | 4. In preparing the will did you use a pen, typewriter, or computer? |
| ___ | ___ | 5. In preparing the will did you use clean sheets of paper without other markings? |
| ___ | ___ | 6. Did you state that the will revokes all other wills and codicils made by you? |
| ___ | ___ | 7. Did you identify yourself in the will by giving your full name and address? |
| ___ | ___ | 8. Did you express your intent that the document be your will? |
| ___ | ___ | 9. Did you name an Executor? |
| ___ | ___ | 10. Did you dispose of all your property through provisions in the will? |
| ___ | ___ | 11. Did you write the will without any errors or erasures? |
| ___ | ___ | 12. Did you include a testimonial clause as referred to on page 7 of this booklet? |
| ___ | ___ | 13. Did you ask at least two competent individuals to act as witnesses? |
| ___ | ___ | 14. Did you declare the document to be your will in the presence of all the witnesses? |
| ___ | ___ | 15. Did you sign the will in the presence of all the witnesses? |
| ___ | ___ | 16. Did you include an attestation clause as described on page 7 of this booklet? |
| ___ | ___ | 17. Did all the witnesses sign the will in your presence and in the presence of each other? |
| ___ | ___ | 18. Did the witnesses include their addresses? |
| ___ | ___ | 19. Did you number the pages of your will? |
| ___ | ___ | 20. Did you prepare a self-proving affidavit as described on page 6 of this booklet? (Optional but recommended.) |
| ___ | ___ | 21. Did you sign the affidavit in the presence of the witnesses and a notary public? |
| ___ | ___ | 22. Did you place the signed will in a safe place where your survivors will find it? |

APPENDIX B

TERMS

Administrator: If you die without a will, the person appointed by the courts to act as your personal representative in paying your debts, filing necessary tax returns and otherwise administering your estate.

Anatomical Gift: The grant or gift of either specified body organs or of the entire body for use in medical transplants or for scientific study.

Attestation Clause: A statement in a person's will setting forth the act of witnessing the will and describing the procedures used in signing and witnessing.

Bond: The sum of money set aside to guarantee the proper administration of an estate or an agreement with a bonding company (similar to an insurance policy) for the company to cover losses to the estate resulting from improper administration.

Codicil: An amendment or an addition to a will.

Execution: In Iowa, the act of signing a will in the presence of at least two witnesses and the witnessing of the testator's signing.

Executor: A person named in the will and appointed by the Court to be the personal representative of the testator and responsible for the administration of the estate.

Heirs: The persons who will succeed to the deceased person's property upon death, if a person dies without a valid will and property passes through intestacy law.

Intestacy: An estate left by a deceased person where no valid will has been made resulting in the deceased's property being distributed under state intestacy law.

Maker: The person who executes the will.

Publication Clause: The statement in a will declaring the will as a person's Last Will and Testament.

Residuary Clause: A statement in a will intended to dispose of all property which has not been distributed by other provisions in a will.

Revocatory Clause: A statement in a will declaring that all wills and codicils previously executed are void upon the execution of the new will.

Specific Bequest: A statement in a will leaving specified items of property to named individuals or organizations.

Testator: A person who has made a will.

Testimonium Clause: A statement in a will by the testator that he/she has signed a will in the presence of witnesses.

Will: A written document setting forth a person's wishes for the division of his/her property upon death, signed in accordance with the provisions of state law.

APPENDIX C

SAMPLE WILL

LAST WILL AND TESTAMENT OF JOAN E. SMITH

I, JOAN E. SMITH, presently residing at 924 East 14th Street, Des Moines, Iowa, being of sound mind, do voluntarily declare this instrument to be my Last Will and Testament, and I hereby revoke all prior Wills and Codicils executed by me.

ARTICLE I - Identification of Family

I am married to James H. Smith and all references in this Will to my spouse are references to James H. Smith. I have no children, either living or dead. My brothers and sisters living at the time of the execution of this will include my brothers Andrew T. Johnson and Charles Johnson and my sister Cathy A. Johnson.

ARTICLE II - Payment of Debts and Charges

I direct that all of my legally enforceable debts, expenses of last illness, costs of administration, succession and transfer taxes and funeral and burial expenses be first paid out of my general estate.

ARTICLE III - List of Tangible Personal Property

I give and bequeath certain personal items identified on the list, letter or other written statement in existence at the time of my death in which I describe certain items of tangible personal property which are to be distributed to specific people. The list shall only dispose of property as indicated. The list, letter or other written statement shall be dated, and shall either be in my handwriting or signed by me. My Executor shall distribute the property as indicated in the list, letter or other written statement.

ARTICLE IV - Disposition of Property.

Specific Bequests. I direct that my mother's diamond wedding ring with gold setting go to my brother, Andrew T. Johnson. If this beneficiary does not survive me, the ring shall be distributed with my residuary estate.

ARTICLE V. - Disposition of Residuary

Residuary Estate. I give the rest, residue and remainder of my estate, whether real, personal, or mixed, to my spouse, James H. Smith. If my spouse predeceases me, I direct that his share be distributed in equal shares to my brother, Andrew T. Johnson and my sister, Cathy A. Johnson. In the event either of them dies before me, I direct

that his or her share be divided in equal shares between his or her children, or in the event he or she should predecease me leaving no children, I direct that all the rest, residue and remainder of my property go to the surviving beneficiary.

ARTICLE VI - Appointment of Executor

I nominate my brother, Andrew T. Johnson, of Mason City, Iowa, as Executor of this, my Last Will and Testament, with all powers, duties and discretion to do any act or thing reasonably necessary or advisable for the proper administration and distribution of my estate. In the event that Andrew T. Johnson should be unable or unwilling to serve as executor for any reason, I then nominate my sister, Cathy A. Johnson, of Davenport, Iowa, to serve in that capacity and grant to her all rights, powers and discretions granted to Andrew T. Johnson as executor.

ARTICLE VII - Powers of Executor

Any executor named in this Will to execute the terms hereof shall serve without bond and shall have the power to sell, lease, mortgage, transfer and deliver any and all interest in real or personal property which I may own at my death, at such price, and upon such terms, as my executor may deem best.

The foregoing powers shall be exercised by my executor without the necessity of notice to, or approval of, any Court or person.

ARTICLE VIII - Intention Concerning Brother

I recognize Charles Johnson as my brother and intend by the provision of this will that he not share in my estate.

IN WITNESS WHEREOF, I, JOAN E. SMITH, have in the presence of the witnesses whose names appear below, declared this to be my LAST WILL AND TESTAMENT, and I have signed the document in their presence and requested that they witness and attest to the execution of my LAST WILL AND TESTAMENT on this ___ day of _____, 201_.

(X) _____
JOAN E. SMITH, TESTATOR

On this ___ day of _____, 201___, the above instrument was subscribed by JOAN E. SMITH in our presence. She declared the instrument to be her LAST WILL AND TESTAMENT, and requested that we, then and there and in her presence and in the presence of each other, witness the execution of the instrument by signing it.

Witness Name & Address

(X) _____
Witness

Witness Name & Address

(X) _____
Witness

APPENDIX D
SELF-PROVING AFFIDAVIT

STATE OF IOWA)
 ss:)
COUNTY OF POLK)

We, the undersigned, JOAN E. SMITH, _____,
_____, the testator and witnesses, respectively,
whose names are signed to the attached or foregoing instrument, being first duly
sworn, declare to the undersigned authority that said instrument is the testator's will
and that the testator willingly signed and executed such instrument or expressly directed
another to sign the same in the presence of the witnesses, as a free and voluntary act
for the purpose therein expressed; that said witnesses, and each of them, declare to the
undersigned authority that such Will was executed and acknowledged by the testator
as the testator's Will in their presence and that they, in the testator's presence, at the
testator's request, and in the presence of each other, did subscribe their names thereto
as attesting witnesses on the date of the date of such Will; that the testator, at the time
of the execution of such instrument, was of full age and sound mind; and that the
witnesses were sixteen years of age or older and otherwise competent witnesses.

JOAN E. SMITH

WITNESS

WITNESS

Subscribed, sworn and acknowledged before me by JOAN E. SMITH, the testator; and
subscribed and sworn to before me by _____ and _____
_____, witnesses, on this ____ day of _____,
201__.

NOTARY PUBLIC IN AND FOR THE STATE OF IOWA

APPENDIX E
LIST OF PERSONAL PROPERTY

Distribution of Personal Property According to
Iowa Code, Section 633.276

Page ___ of ___

To: My Family, Heirs, Executor or Personal Representative

This is the list referred to in my Will. Please distribute the items listed below to the persons I have named:

Item:	To Be Distributed To:
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

_____ Date

_____ Testator's signature

Note: Iowa law allows you to distribute in this manner your tangible personal property that is not otherwise specifically disposed of by your Will, if this list is referred to in your Will. Tangible personal property includes household goods, furnishings, furniture, personal effects, clothing, jewelry, books, works of art, ornaments, and automobiles. Tangible personal property does not include bank accounts, cash, evidences of indebtedness, documents of title, securities, and property used in trade or business.

Should you wish to make any changes to the above list, make and sign a new list. Keep this list or its replacement with your Will so it can be found when it is needed.

Appendix F
SAMPLE CODICIL

FIRST CODICIL TO LAST WILL AND TESTAMENT OF JOAN E. SMITH
ARTICLE I.

I, JOAN E. SMITH, presently residing at 924 East 14th Street, Des Moines, Iowa, being of sound mind, do voluntarily declare this instrument to be my First Codicil to my Last Will and Testament which was executed by me on January, 14, 2010, and witnessed by _____ and _____.

ARTICLE II.

I direct that, in addition to my mother's ring which I gave to my brother in Article III of my Last Will and Testament, my 1998 Buick, or any other automobile that I may own at the time of my death, also be given to my brother, Andrew T. Johnson of Mason City, Iowa. These gifts are to be made prior to dividing the remainder of my property and these gifts shall not reduce the share of my estate which my brother will receive under Article IV of my Will.

In all other respects not inconsistent herewith, I confirm and republish my said Will dated _____.

IN WITNESS WHEREOF, I, JOAN E. SMITH, have in the presence of the witnesses whose names appear below, declared this to be my FIRST CODICIL TO LAST WILL AND TESTAMENT, and I have signed the document in their presence and requested that they witness and attest to the execution of my FIRST CODICIL TO LAST WILL AND TESTAMENT on this ____ day of _____, 201__.

(X) _____
JOAN E. SMITH, TESTATOR

On this ____ day of _____, 201__, the above instrument was subscribed by JOAN E. SMITH in our presence. She declared the instrument to be he FIRST CODICIL TO LAST WILL AND TESTAMENT, and requested that we, then and there and in her presence and in the presence of each other, witness the execution of the instrument by signing it.

Witness Name & Address

(X) _____
Witness

Witness Name & Address

(X) _____
Witness

Appendix G
DURABLE POWER OF ATTORNEY FOR HEALTH CARE DECISIONS
(Medical Power of Attorney)

I, _____ hereby revoke all Durable Powers of Attorney for Health Care previously made by me. I hereby designate _____ of _____

_____,
(address, city, state and telephone numbers)

as my attorney in fact (my agent) and give to my agent the power to make health care decisions for me. This power exists only when I am unable, in the judgment of my attending physician, to make those health care decisions. The attorney-in-fact must act consistently with my desires as stated in this document or otherwise made known.

Except as otherwise specified in this document, this document gives my agent the power, where otherwise consistent with the laws of the State of Iowa, to consent to my physician not giving health care or stopping health care which is necessary to keep me alive.

This document gives my agent power to make health care decisions on my behalf, including to consent, to refuse to consent, or to withdraw consent to any care, treatment, service or procedure to maintain, diagnose or treat a physical or mental condition. This power is subject to any statement of my desires and any limitations included in this document . My agent has the right to examine my medical records, to consent to disclosure of such records, and to have access to my personally identifiable health care and related information of all kinds in any form, and to execute any other document that may be required or requested in order to do so. I also appoint my agent as my Personal Representative (as that term is used in the Health Insurance Portability and Accountability Act of 1996, as amended, and its promulgating regulations).

Additional provisions:

If the person designated as agent above is unable or unwilling to serve, I designate the following person to serve as my agent with the power to make health care decisions for me:

(name, address and telephone number).

Signed this _____ day of _____, _____.

(Signature of Declarant/Principal)

Address: _____

SSN:# _____

IMPORTANT NOTE: THIS DOCUMENT MUST BE SIGNED BEFORE A NOTARY PUBLIC OR TWO WITNESSES. IF YOU HAVE QUESTIONS REGARDING THIS FORM OR NEED ASSISTANCE TO COMPLETE IT, YOU SHOULD CONSULT AN ATTORNEY.

NOTARY PUBLIC FORM

STATE OF IOWA, COUNTY OF _____, SS:

On this _____ day of _____, _____, before me, the undersigned, a Notary Public in and for said state, personally appeared _____, to me known to be the person named in and who executed the foregoing instrument and acknowledged that he/she executed the same as his/her voluntary act and deed.

Notary Public in and for the State of Iowa

WITNESS FORM

We, the undersigned, hereby state that:

- we signed this document in the presence of each other and the Declarant;
- we witnessed the signing of the document by the Declarant or by another person acting on behalf of the Declarant at the direction of the Declarant;
- neither of us are health care providers who are presently treating the Declarant, or employees of such a health care provider;
- we are both at least 18 years of age; and
- at least one of us is not related to the Declarant by blood, marriage or adoption.

Signature of 1st Witness

Signature of 2nd Witness

(Type or Print Name of Witness)

(Type or Print Name of Witness)

Street Address

Street Address

City State Zip Code

City State Zip Code

GENERAL INFORMATION REGARDING DURABLE POWER OF ATTORNEY FOR HEALTH CARE

1. "Health care" means any care, treatment, service, or procedure to maintain, diagnose, or treat an individual's physical or mental condition. Health care decisions also include decisions about life-sustaining procedures, which means any medical procedure, treatment, or intervention which utilizes mechanical or artificial means to sustain, restore, or supplement a spontaneous vital function, and when applied to a person in a terminal condition, would serve only to prolong the dying process. Life sustaining procedure does not include administration of medication or performance of any medical procedure deemed necessary to provide comfort care or to alleviate pain.
2. The following individuals shall not be designated as the attorney in fact to make health care decisions under a durable power of attorney for health care:
 - a. a health care provider attending the principal on the date of execution;
 - b. an employee of such a health care provider unless the individual to be designated is related to the principal by blood, marriage, or adoption within the third degree of consanguinity.
3. The power of attorney for health care may be revoked at any time and in any manner by which the principal declarant is able to communicate the intent to revoke, without regard to mental or physical condition. A revocation is only effective as to the attending health care provider upon its communication to the provider by the principal declarant or by another to whom the principal/declarant has communicated the revocation.
4. It is the responsibility of the principal declarant to provide the attending health care provider with a copy of this document.

SUGGESTIONS AFTER FORM IS PROPERLY SIGNED, WITNESSED OR NOTARIZED

1. Provide a copy to the designated attorney-in-fact (agent) and to alternate designated attorney-in-fact (if any).
2. Place original in a safe place known and accessible to family members or close friends.
3. Provide a copy to your doctor.
4. Provide a copy(s) to family member(s).

Appendix H

DECLARATION RELATING TO USE OF LIFE-SUSTAINING PROCEDURES (Living Will)

If I should have an incurable or irreversible condition that will result either in death within a relatively short period of time or a state of permanent unconsciousness from which, to a reasonable degree of medical certainty, there can be no recovery, it is my desire that my life not be prolonged by the administration of life-sustaining procedures. If I am unable to participate in my health care decisions, I direct my attending physician to withhold or withdraw life-sustaining procedures that merely prolong the dying process and are not necessary to my comfort or freedom from pain.

This declaration is subject to any specific instructions or statement of desires I have added in "Additional Provisions" below.

Additional provisions:

Signed this _____ day of _____, 201__.

(Declarant)

Address: _____

SSN:# _____

IMPORTANT NOTE: THIS DOCUMENT MUST BE SIGNED BEFORE A NOTARY PUBLIC OR TWO WITNESSES. IF YOU HAVE QUESTIONS REGARDING THIS FORM OR NEED ASSISTANCE TO COMPLETE IT, YOU SHOULD CONSULT AN ATTORNEY.

NOTARY PUBLIC FORM

STATE OF IOWA, COUNTY OF _____, SS:

On this _____ day of _____, 201____, before me, the undersigned, a Notary Public in and for said state, personally appeared _____, to me known to be the person named in and who executed the foregoing instrument and acknowledged that he executed the same as his voluntary act and deed.

Notary Public in and for the State of Iowa

WITNESS FORM

We, the undersigned, hereby state that:

- we signed this document in the presence of each other and the Declarant;
- we witnessed the signing of the document by the Declarant or by another person acting on behalf of the Declarant at the direction of the Declarant;
- neither of us is a health care provider who is presently treating the Declarant, or an employees of such a health care provider;
- we are both at least 18 years of age; and
- at least one of us is not related to the Declarant by blood, marriage or adoption.

Signature of 1st Witness

Signature of 2nd Witness

(Type or Print Name of Witness)

(Type or Print Name of Witness)

Street Address

Street Address

City State Zip Code

City State Zip Code

GENERAL INFORMATION REGARDING LIVING WILLS

1. “Life-sustaining procedure” means any medical procedure, treatment, or intervention which utilizes mechanical or artificial means to sustain, restore or supplement a spontaneous vital function, and when applied to a person in a terminal condition, would serve only to prolong the dying process. “Life sustaining procedure” does not include administration of medication or performance of any medical procedure deemed necessary to provide comfort care or to alleviate pain.
2. The terms “health care” and “life-sustaining procedure” include nutrition and hydration (food and water) only when provided parenterally or through intubation (intravenously or by feeding tube). Thus, this document authorizes withholding nutrition or hydration that is provided intravenously or by feeding tube. If this is not what you want, you should set forth your specific instructions in the space provided.
3. The declaration relating to use of life-sustaining procedures may be revoked at any time and in any manner by which the principal declarant is able to communicate the intent to revoke, without regard to mental or physical condition. A revocation is only effective as to the attending health care provider upon its communication to the provider by the principal declarant or by another to whom the principal/declarant has communicated the revocation.
4. A declaration relating to use of life-sustaining procedures will be given effect only when the declarant’s condition is determined to be terminal or the declarant is in a state of permanent unconsciousness, and the declarant is not able to make treatment decisions.

SUGGESTIONS AFTER FORM IS PROPERLY SIGNED, WITNESSED OR NOTARIZED

1. Provide a copy to anyone whom you have designated to make health care decisions for you in a Durable Health Care Power of Attorney.
2. Place original in a safe place known and accessible to family members or close friends.
3. Provide a copy to your doctor.
4. Provide a copy(s) to family member(s).

Iowa Legal Aid offices are normally open Monday through Friday from 8:30 a.m. to 4:30 p.m. Offices are closed on holidays. To apply for help, call Iowa Legal Aid at 1-800-532-1275 during intake hours. Hours for telephone intakes are from 9 to 11 a.m. and 1:30 to 3:30 p.m., Monday through Friday *except Thursday afternoon*. (subject to change). Emergencies are taken during regular office hours. You may also come to the regional office listed below serving your county but it is helpful to first call for an appointment.

IOWA LEGAL AID
1111 9th Street, Suite 230
Des Moines, Iowa 50314-2527
Toll-Free Phone: 1-800-532-1275 or call (515) 243-2151

Information on Iowa Legal Aid Offices is also available on the Web at:
iowalegalaid.org

CEDAR RAPIDS REGIONAL OFFICE

317 7th Avenue SE, Suite 404
Cedar Rapids, Iowa 52401-2007
SERVING: Benton, Iowa, Linn, Marshall, Poweshiek and Tama Counties

SOUTHWEST IOWA REGIONAL OFFICE

532 1st Avenue, Suite 300
Council Bluffs, Iowa 51503-0803
SERVING: Adams, Audubon, Carroll, Cass, Crawford, Fremont, Harrison, Mills, Montgomery, Page, Pottawattamie, Ringgold, Shelby and Taylor Counties

CENTRAL IOWA REGIONAL OFFICE

1111 9th Street, Suite 230
Des Moines, Iowa 50314-2527
SERVING: Adair, Boone, Clarke, Dallas, Greene, Guthrie, Hamilton, Jasper, Madison, Polk, Story, Union, Warren and Webster Counties

NORTHEAST IOWA REGIONAL OFFICE

799 Main Street, Suite 280
Dubuque, Iowa 52001-6851
SERVING: Allamakee, Clayton, Delaware, Dubuque, Fayette, Jackson, Jones and Winneshiek Counties

IOWA CITY REGIONAL OFFICE

1700 South 1st Avenue, Suite 10
Iowa City, Iowa 52240-6036
SERVING: Cedar, Des Moines, Henry, Johnson, Louisa, Muscatine and Washington Counties

NORTH CENTRAL IOWA REGIONAL OFFICE

600 1st Street NW, Suite 103
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NORTHWEST IOWA REGIONAL OFFICE

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607 Sycamore Street, Suite 206
Waterloo, Iowa 50703-4799
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HELP LEGAL ASSISTANCE

736 Federal Street, Suite 1401
Davenport, Iowa 52803-5762
(563) 322-6216
SERVING: Scott and Clinton Counties

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