

ESTATE & TRUST UPDATE

West Virginia Tax Institute

October 24, 2022

RESOURCE MATERIALS

Intestate Administration

- Intestate Succession Pamphlet – West Virginia Senior Legal Aid Inc.

Private Administration of Small Assets

- West Virginia Affidavit For Small Sum, Asset or Property (Not More than \$5,000)

Small Estate Administration by Affidavit

- Affidavit for Small Estate
- Clerk of County Commission: Certificate and Authorization of Small Estate (Not More than \$50,000)
- Fiduciary Supervisor: Certificate and Authorization of Small Estate (Not More than \$50,000)

Ancillary Administration

- Instructions - Applying for Ancillary Administration in Monongalia County – Office of the Monongalia County Clerk
- Outline of Documents for West Virginia Ancillary Administration – Chris Winton
- Affidavit for Ancillary Administration of West Virginia Real Estate Without Appointment (**Testate With Authenticated Copy**)
 - Continuation Sheet for Affidavit for Ancillary Administration (Testate)
- Affidavit for Ancillary Administration of West Virginia Real Estate Without Appointment (**Testate With Original Will**)
 - Continuation Sheet for Affidavit for Ancillary Administration (Testate)
- Affidavit for Ancillary Administration of West Virginia Real Estate Without Appointment (**Intestate**)

- Notice of Ancillary Administration of West Virginia Real Estate Without Appointment (**Testate**)
- Notice of Ancillary Administration of West Virginia Real Estate Without Appointment (**Intestate**)
- Certificate of Service of Notice of Ancillary Administration of West Virginia Real Estate Without Appointment
- Order and Notice of Hearing on Objection to Ancillary Administration
- Order Overruling Objection and Permitting Ancillary Administration Without Appointment
- Order Sustaining Objection and Directing Full Ancillary Administration

WV Center for End of Life Care Resources

- www.wvendoflife.org
- **List of Forms and Resources**

Health Care Forms

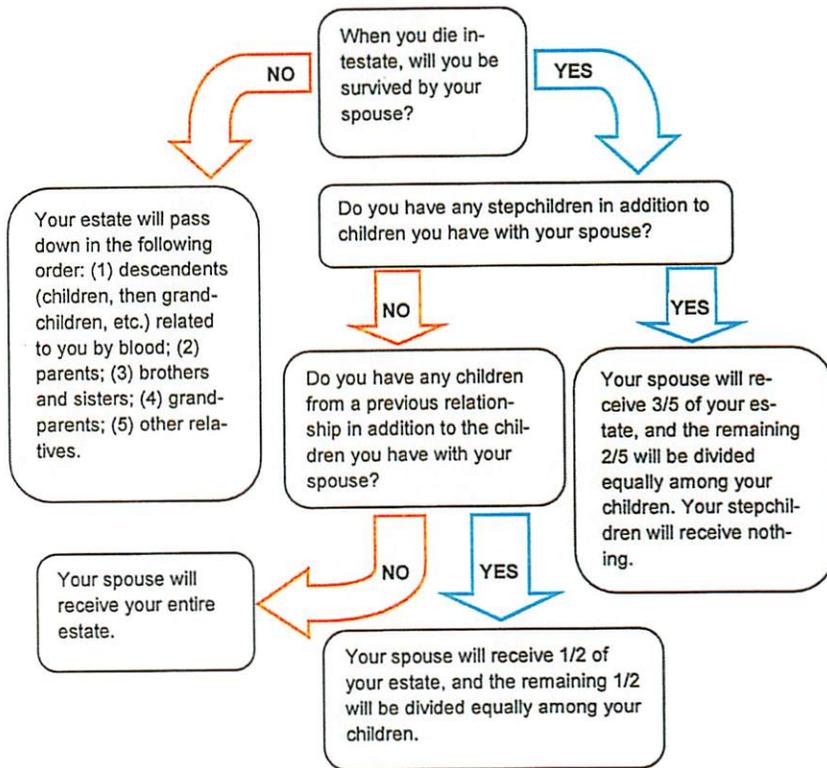
- Summary of Changes to Health Care Decisions Act – Senate Bill 470 – Effective June 7, 2022. All facilities are required to update forms by January 1, 2023.
- Sample HIPAA Authorization Forms (Provider form; Individual form)
- Physician Order of Scope of Treatment (POST) Form
- WV Combined Medical Power of Attorney/Living Will Statutory Form (2022)
- WV Combined Medical Power of Attorney/Living Will Statutory Form (Markup – 2022 Legislation modifications to prior statutory form)

General Durable Power of Attorney

- WV Power of Attorney Statutory Form (General Durable Power of Attorney/Financial Power of Attorney)

INTESTATE ADMINISTRATION

INTESTATE SUCCESSION FLOW CHART



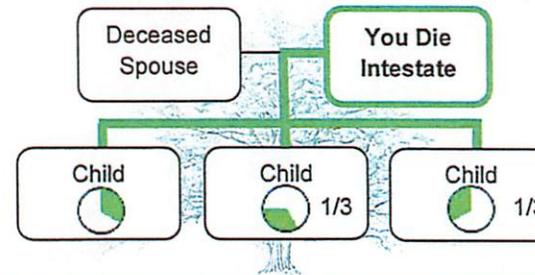
WHAT WILL HAPPEN TO MY ESTATE IF I DIE WITHOUT A WILL?

MYTH: The government will seize all of my estate (my land and personal property) if I die intestate (without a will).

FACT: If you die intestate, West Virginia statutory law ensures that your estate passes to your spouse and/or other relatives. The law determines who the recipients of your property are, and the amount the recipients receive depends on whether you are survived by a spouse, and if you have a spouse, the relation of any children you may have to your spouse.

IF YOU ARE NOT SURVIVED BY A SPOUSE...

If you die intestate and are not survived by a spouse, your estate will pass down in the following order: (1) descendants (children, then grandchildren, etc.) related to you by blood; (2) parents; (3) brothers and sisters; (4) grandparents; (5) other relatives.



For example, if your spouse is deceased when you die intestate, but you are survived by children, each child will receive an equal share of your estate.



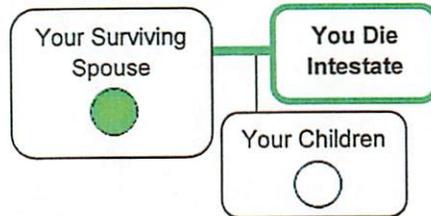
West Virginia Senior Legal Aid, Inc. phone: 1-800-229-5068
 235 High Street #519 fax: 1-304-296-2746
 Morgantown, WV 26505 email: seniorlegalaid@yahoo.com



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IF YOU ARE SURVIVED BY A SPOUSE. . .

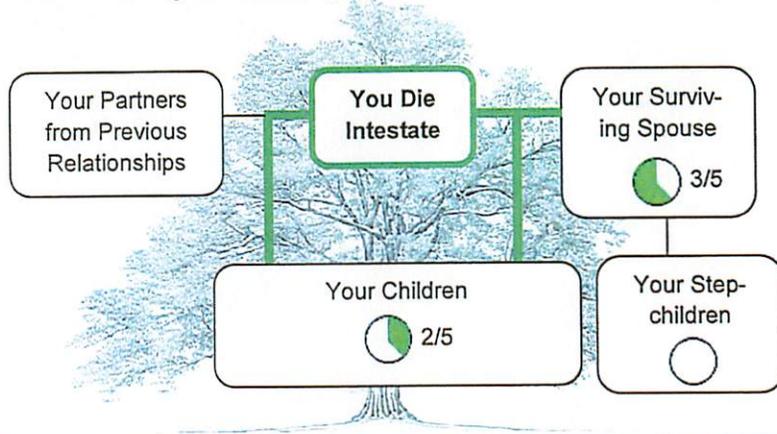
If you die intestate with a surviving spouse, in most circumstances, your surviving spouse will receive your entire estate.



HOWEVER, if either you or your spouse has children from another relationship *and* you and your spouse have children, your spouse will receive less than the entire estate.

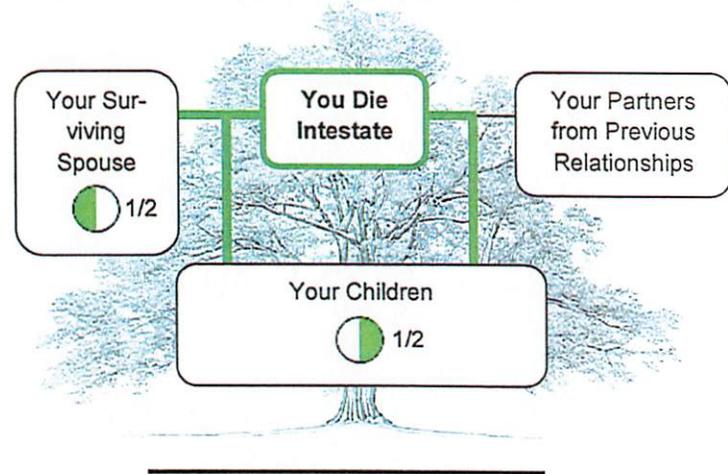
❖ **If you have children *and* stepchildren. . .**

When the surviving spouse has children from another relationship in addition to the children your spouse has with you, if you die intestate, your surviving spouse will receive 3/5 of your estate. The remaining 2/5 is divided equally among your children. Note that stepchildren receive nothing. See the diagram below.



❖ **If you have children from your current marriage *and* from a previous relationship. . .**

When you have children from a previous relationship in addition to the children you have with your spouse, if you die intestate, your spouse will receive 1/2 of your estate. The remaining 1/2 will be divided equally among your children. See the diagram below.



If you do not yet have a will and are unsatisfied with how your estate will be distributed if you die intestate, you are strongly encouraged to consult an attorney about making a will. Residents of West Virginia who are 60 years old or older may call West Virginia Senior Legal Aid, Inc. toll free at 1-800-229-5068 with questions about wills, intestacy, and other civil legal issues.

The law regarding intestate succession can be found in the West Virginia code. See W. VA. CODE § 42-1-1 et seq. (2010).

**PRIVATE ADMINISTRATION OF SMALL
ASSETS (NOT MORE THAN \$5,000)**

IN RE: THE ESTATE OF _____
DOD: _____

**WEST VIRGINIA AFFIDAVIT FOR SMALL SUM, ASSET, OR PROPERTY
(NOT MORE THAN \$5,000)**

STATE OF _____,

COUNTY OF _____, to-wit:

I, _____, being related to the Decedent identified below and being entitled to a small sum, asset, or property of the Decedent pursuant to the provisions of West Virginia Code § 44-1-28, being first duly sworn, upon oath and under penalty of perjury, do depose and say to the best of my knowledge and belief as follows:

1. My name is _____, and my current address is _____.

2. The Decedent, _____, died on _____ (date of death), a resident of _____ County, State of West Virginia, with his/her usual residence being _____.

The Decedent was domiciled in the State of West Virginia. A certified death certificate is attached hereto.

3. More than 120 days have elapsed since the Decedent's date of death, and there has been no qualification or application for the appointment of a personal representative for the Decedent in any jurisdiction, including by any affidavit of Small Estate filed in the Decedent's County of residence in West Virginia.

4. I am related to the decedent as _____ (state relationship).

5. The small sum, asset, or property of the Decedent is described as follows:

(IMPORTANT: The small sum, asset, or property CANNOT exceed \$5,000. It can be wages, salary, pension payments or money allowed for burial expenses to a decedent owed by an employer, a bank account, a savings institution account, a credit union account, a certificate of deposit, a brokerage account, stock, a mutual fund, a security, a

bond, a note, a promissory note, an obligation, an instrument evidencing a debt, indebtedness owed to the decedent, proceeds of life insurance payable to the estate, a deposit, a refund, a tax refund, an overpayment, a chose in action, or an item of tangible personal property including a motor vehicle.)

6. **CHECK IF APPLICABLE** At the date of death, the Decedent left _____ as his/her Surviving Spouse who is entitled to the small sum, asset, or property.

OR

CHECK IF APPLICABLE At the date of death, the Decedent did NOT leave any surviving spouse and the Decedent left as his/her distributees in accordance with the laws of intestate descent and distribution of the State of West Virginia the following person or persons who is/are entitled to the small sum, asset, or property:

a. Name: _____
Address: _____
Relationship to Decedent: _____
Share or percentage: _____

b. Name: _____
Address: _____
Relationship to Decedent: _____
Share or percentage: _____

c. Name: _____
Address: _____
Relationship to Decedent: _____
Share or percentage: _____

d. Name: _____
Address: _____
Relationship to Decedent: _____
Share or percentage: _____

e. Name: _____
Address: _____
Relationship to Decedent: _____
Share or percentage: _____

(If more space is needed, attach additional page(s) to affidavit)

7. The above person or persons is/are justly entitled to the above described small sum, asset, or property under the provisions of West Virginia Code § 44-1-28.

Witness my hand and seal this ____ day of _____, 20__.

Signature of Affiant

Taken, subscribed, and sworn to before me the undersigned authority by _____, this ____ day of _____, 20__.

{seal}

My Commission expires: _____

Notary Public

NOTE TO THE "PERSON" TO WHOM THIS AFFIDAVIT IS TENDERED: West Virginia Code § 44-1-28(d) provides that "Payment in accordance with this section is in full discharge and acquittance to all persons whomsoever on account of the property to the same extent as if that person dealt with the personal representative of the decedent. That person is not required to see the application of the asset or proceeds or to inquire into the truth of any statement in the affidavit."

SMALL ESTATE ADMINISTRATION

BY AFFIDAVIT

IN THE COUNTY COMMISSION OF _____ COUNTY, WEST VIRGINIA

IN RE: THE ESTATE OF _____
DOD: _____

AFFIDAVIT FOR SMALL ESTATE

STATE OF _____,

COUNTY OF _____, to-wit:

I, _____, being a Successor of the Decedent identified below, being first duly sworn, upon oath and under penalty of perjury, do depose and say to the best of my knowledge and belief as follows:

1. My name is _____, and my current address is _____.

2. The Decedent, _____, died on _____ (date of death), a resident of _____ County, State of West Virginia, with his/her usual residence being _____.

A certified death certificate has been furnished herewith for filing in this County. I am a Successor of the decedent as _____ (state relationship).

3. **TESTACY () [Check if applies] or () [Check if Not Applicable]**
At the date of death, the Decedent died with an ORIGINAL Last Will and Testament of the Decedent dated _____, without any codicil thereto () or with codicil(s) thereto dated _____ () [Check if applies]. The aforesaid ORIGINAL Last Will and Testament of the decedent, together with any codicil(s), is furnished herewith for recording in this County as permitted by West Virginia Code § 44-1A-2(b).

Under the Last Will and Testament of the Decedent, the following person(s) is/are nominated to be the personal representative(s) of the Estate:

a. Name: _____
Address: _____

b. Name: _____
Address: _____

Pursuant to the provisions of the above referenced Will of the Decedent, the following persons are the named beneficiaries of the estate of the Decedent:

a. Name: _____
Address: _____

Relationship to Decedent: _____
Share or percentage or particular item: _____

b. Name: _____
Address: _____

Relationship to Decedent: _____
Share or percentage or particular item: _____

c. Name: _____
Address: _____

Relationship to Decedent: _____
Share or percentage or particular item: _____

d. Name: _____
Address: _____

Relationship to Decedent: _____
Share or percentage or particular item: _____

e. Name: _____
Address: _____

Relationship to Decedent: _____
Share or percentage or particular item: _____

(If more space is needed, attach additional page(s) to affidavit)

4. **INTESTACY** () [Check if applies] or () [Check if Not Applicable]

At the date of death, the Decedent died intestate with no known will. The Decedent left as his/her heirs at law and distributees in accordance with the laws of intestate descent and distribution of the State of West Virginia the following persons:

- a. Name: _____
Address: _____
Relationship to Decedent: _____
Share or percentage: _____
- b. Name: _____
Address: _____
Relationship to Decedent: _____
Share or percentage: _____
- c. Name: _____
Address: _____
Relationship to Decedent: _____
Share or percentage: _____
- d. Name: _____
Address: _____
Relationship to Decedent: _____
Share or percentage: _____
- e. Name: _____
Address: _____
Relationship to Decedent: _____
Share or percentage: _____

(If more space is needed, attach additional page(s) to affidavit)

5. The Decedent's entire personal probate estate, as of the date of the Decedent's death, wherever located, consists only of Small Assets and the aggregate fair market value of the Small Assets does not exceed \$50,000. The Small Assets of the Decedent are described and itemized as follows:

	Description	Fair Market value
a.		
b.		
c.		
d.		
e.		

f.		
	Total	

(If more space is needed, attach additional page(s) to affidavit)

6. The Decedent did () / did not () [Check one which applies] die seized and possessed of any probate real estate or interests in probate real estate in the State of West Virginia. If the Decedent died seized and possessed of any probate real estate or interest in real estate in the State of West Virginia, the aggregate fair market value of all of the real estate or interests in real property situate in this State does not exceed \$100,000 and the real estate of the Decedent in West Virginia is as follows:

	Description	County	Assessed Value	Fair Market value
a.				
b.				
c.				
d.				
e.				
	Total			

(If more space is needed, attach additional page(s) to affidavit)

7. () [Check if applies] or () [Check if Not Applicable] If the affiant is a Successor who was nominated as a personal representative or executor under the provisions of the above Will of the Decedent, at least 30 days have elapsed since the Decedent's date of death and no application for the appointment of a personal representative for the Decedent is pending or has been granted in any jurisdiction;

or

() [Check if applies] or () [Check if Not Applicable] If the affiant is a Successor who was NOT nominated as a personal representative or executor under the provisions of the above Will of the Decedent or if the Decedent died intestate without a will, at least 60 days have elapsed since the Decedent's date of death and no application for the appointment of a personal representative for the Decedent is pending or has been granted in any jurisdiction, and no affidavit of Small Estate has been filed by a Successor nominated as a personal representative or executor under the provisions of the Will of the Decedent.

8. The undersigned Affiant will faithfully administer the Small Assets of the Decedent in accordance with the law and pay or deliver the same to the Successor or Successors so entitled, after paying any known or ascertainable creditors of the decedent.

Witness my hand and seal this ____ day of _____, 20__.

Signature of Affiant/Successor

Taken, subscribed, and sworn to before me the undersigned authority by _____, this ____ day of _____, 20__.

{seal}

My Commission expires: _____

Notary Public

IN THE COUNTY COMMISSION OF _____ COUNTY, WEST VIRGINIA

IN RE: THE ESTATE OF _____
DOD: _____

**CERTIFICATE AND AUTHORIZATION OF SMALL ESTATE
(NOT MORE THAN \$50,000)**

The undersigned Clerk of the County Commission of _____ County does hereby CERTIFY that, pursuant to the provisions of West Virginia Code § 44-1A-2, an Affidavit for Small Estate for the above named Decedent, _____, who died on the _____ day of _____, 20____, a resident of _____ County, State of West Virginia, has been filed before the County Commission on the _____ day of _____, 20____, by the affiant _____, who is a successor being related to the Decedent as _____, and that the Affidavit has been inspected, is in true and proper form, and has been accepted by the undersigned in accordance with law and has been or will be recorded in this County, including any will of the Decedent attached thereto.

Accordingly, the undersigned Clerk of the County Commission does hereby CERTIFY that _____ is the Authorized Successor of the Decedent, _____, who is AUTHORIZED to be paid, transferred, and delivered the small assets of the above named Decedent, which are reported as follows:

	Description
a.	
b.	
c.	
d.	
e.	
f.	

The Authorized Successor has authority to pay, transfer, and deliver the same to the successor or successors of the Decedent so entitled, all pursuant to the provisions of article 1A of chapter 44 of the West Virginia Code and the other laws of the State of West Virginia and with authority to faithfully perform the duties of the office as may be necessary to collect and administer the small assets of the decedent including, but not limited to, making application for and executing receipts, assignments, transfers, releases, waivers, applications, claims, claims for refunds, and federal, state, or local tax returns of the decedent concerning the small assets, pursuing litigation for or against the decedent or the decedent's estate, and paying or settling the funeral expenses or the claims of creditors of the decedent.

As provided by law, the authority under this Certificate and Authorization is effective for six (6) months from the date below.

CERTIFIED this ____ day of _____, 20__.

Clerk of the County Commission

NOTE TO THE "PERSON" TO WHOM THIS CERTIFICATE AND AUTHORIZATION IS DELIVERED: *Any person having possession of a Small Asset of a Decedent shall pay or deliver the Small Asset to the Authorized Successor of the Decedent upon being presented the Certificate and Authorization. If you do not understand or have questions regarding your legal responsibilities relative to this document, you should consult an attorney at law. "Person" means any individual, corporation, business trust, fiduciary, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, agency or instrumentality, public corporation, or any other legal or commercial entity. "Small Asset" means any probate personal property or asset belonging or presently distributable to the Decedent having a fair market value on the Decedent's date of death of not more than \$50,000. A Small Asset includes, but is not limited to, cash, bank account, savings institution account, credit union account, certificate of deposit, brokerage account, stock, mutual fund, security, bond, note, promissory note, obligation, instrument evidencing a debt, indebtedness owed to the decedent, proceeds of life insurance payable to the estate, deposit, refund, tax refund, overpayment, chose in action, or item of tangible personal property including a motor vehicle.*

IN THE COUNTY COMMISSION OF _____ COUNTY, WEST VIRGINIA

IN RE: THE ESTATE OF _____
DOD: _____

**CERTIFICATE AND AUTHORIZATION OF SMALL ESTATE
(NOT MORE THAN \$50,000)**

The undersigned Fiduciary Supervisor of the County Commission of _____ County does hereby CERTIFY that, pursuant to the provisions of West Virginia Code § 44-1A-2, an Affidavit for Small Estate for the above named Decedent, _____, who died on the ____ day of _____, 20____, a resident of _____ County, State of West Virginia, has been filed before the County Commission on the ____ day of _____, 20____, by the affiant _____, who is a successor being related to the Decedent as _____, and that the Affidavit has been inspected, is in true and proper form, and has been accepted by the undersigned in accordance with law and has been or will be recorded in this County, including any will of the Decedent attached thereto.

Accordingly, the undersigned Fiduciary Supervisor of the County Commission does hereby CERTIFY that _____ is the Authorized Successor of the Decedent, _____, who is AUTHORIZED to be paid, transferred, and delivered the small assets of the above named Decedent, which are reported as follows:

	Description
a.	
b.	
c.	
d.	
e.	
f.	

The Authorized Successor has authority to pay, transfer, and deliver the same to the successor or successors of the Decedent so entitled, all pursuant to the provisions of article 1A of chapter 44 of the West Virginia Code and the other laws of the State of West Virginia and with authority to faithfully perform the duties of the office as may be necessary to collect and administer the small assets of the decedent including, but not limited to, making application for and executing receipts, assignments, transfers, releases, waivers, applications, claims, claims for refunds, and federal, state, or local tax returns of the decedent concerning the small assets, pursuing litigation for or against the decedent or the decedent's estate, and paying or settling the funeral expenses or the claims of creditors of the decedent.

As provided by law, the authority under this Certificate and Authorization is effective for six (6) months from the date below.

CERTIFIED this ____ day of _____, 20__.

Fiduciary Supervisor

NOTE TO THE "PERSON" TO WHOM THIS CERTIFICATE AND AUTHORIZATION IS DELIVERED: *Any person having possession of a Small Asset of a Decedent shall pay or deliver the Small Asset to the Authorized Successor of the Decedent upon being presented the Certificate and Authorization. If you do not understand or have questions regarding your legal responsibilities relative to this document, you should consult an attorney at law. "Person" means any individual, corporation, business trust, fiduciary, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, agency or instrumentally, public corporation, or any other legal or commercial entity. "Small Asset" means any probate personal property or asset belonging or presently distributable to the Decedent having a fair market value on the Decedent's date of death of not more than \$50,000. A Small Asset includes, but is not limited to, cash, bank account, savings institution account, credit union account, certificate of deposit, brokerage account, stock, mutual fund, security, bond, note, promissory note, obligation, instrument evidencing a debt, indebtedness owed to the decedent, proceeds of life insurance payable to the estate, deposit, refund, tax refund, overpayment, chose in action, or item of tangible personal property including a motor vehicle.*

**ANCILLARY ADMINISTRATION
OF WV REAL PROPERTY**



Applying for Ancillary Administration in Monongalia County

What to bring to your appointment:

- ❖ *Exemplified or Authenticated* copy of will obtained from the court in the county and state where estate records are probated.
- ❖ If no will, *Exemplified or Authenticated* copy of intestate records from the court in the county and state where estate records are probated.
- ❖ If you are **not** the personal representative named in the will, a Waiver of Executor form(s) signed before a notary public by all persons named as personal representatives in the last will and testament are needed. (Please note this form is found at our website.)
- ❖ Death Certificate of the Decedent.
- ❖ Mailing addresses of all beneficiaries/heirs.
- ❖ Proper ID of applicant (Personal Representative).
- ❖ Proper Bond if required by law.
 - Any person not named in the Will to serve without bond, or if there is not a will, applicants are required to be bonded. The amount is equal to the deceased person's personal assets (in decedent's name only, i.e., bank accounts, stocks, titled vehicles, life insurance made payable to the estate). The following describes bond options:
*Note: If there is a will and the personal representative is authorized to sell real estate or receive the rents and profits thereof, such values would be added to the personal property. WV Code 44-1-7

A nonresident of West Virginia's bond would need to be doubled if person applying is **not** a spouse, parent, sibling, lineal descendent or sole beneficiary. WV Code 44-5-3 (b)(1)

Assets valued under \$10,000*

- 1) Someone you know who owns real estate within West Virginia and is not an heir-at-law in this county is permitted to sign a surety bond for you. Please note if the property owned in a county other than Monongalia, he or she will have to obtain a "Justification of Surety" from the County Clerk's Office of that county to submit to our office at the time of your appointment.
- 2) If you do not have anyone as described in number 1, you will need an estate bond secured through an insurance company.
*Note: If person to be appointed is a nonresident of WV, this option does not apply.

Assets valued over \$10,000

- 1) You will need an estate bond secured through an insurance company. (See attached list for local bonding agents)

For more information visit our website at monongaliacountyclerk.com to obtain waiver forms, view bonding agents, or to make an appointment.

Cost for appointment will approximately amount to \$45.00

OUTLINE
OF
DOCUMENTS FOR WEST VIRGINIA ANCILLARY ADMINISTRATION
Under House Bill 2759 (Effective May 30, 2019)

- I. Affidavit to be signed by applicant (interested party)..
 - A. Testacy.
 - 1. ***Affidavit for Ancillary Administration of West Virginia Real Estate without Appointment (Testate with authenticated copy);***
or
 - 2. ***Affidavit for Ancillary Administration of West Virginia Real Estate without Appointment (Testate with original will).***
 - B. Intestacy: ***Affidavit for Ancillary Administration of West Virginia Real Estate without Appointment (Intestate).***
- II. Notice.
 - A. Testacy: ***Notice of Ancillary Administration of West Virginia Real Estate without Appointment (Testate).***
 - B. Intestacy: ***Notice of Ancillary Administration of West Virginia Real Estate without Appointment (Intestate).***
 - C. All Notices are:
 - 1. Entered by County Clerk.
 - 2. Published by County Clerk in local newspaper.
 - 3. Mailed by applicant to all interested parties with a Certificate of Service.
- III. ***Certificate of Service*** (applies to both Testate and Intestate).
 - A. Prepared by applicant.
 - B. Mailed by applicant to all interested parties.
 - C. Notice prepared by the County Clerk is attached and mailed by applicant with the Certificate of Service.
 - D. Certificate of Service is filed by applicant with County Clerk.
- IV. Completion of the Ancillary Administration (applies to both Testate and Intestate).
 - A. No objection is received and deadline passes.
 - 1. ***Certification of Completion of Ancillary Administration of West Virginia Real Estate without Appointment*** (applies to Testate and Intestate).
 - 2. Entered by County Clerk.
 - B. Objection is filed.
 - 1. ***Order and Notice of Hearing on Objection to Ancillary Administration.***
 - a. Entered by County Commission.
 - b. Mailed by County Clerk to all interested parties.
 - c. Hearing is scheduled before the County Commission.
 - d. Copy of the objection is attached to the Order and Notice.
 - 2. Adjudication of the objection by County Commission at the hearing.

- a. ***Order Overruling Objection and Permitting Ancillary Administration without Appointment.***
 - (1) Entered by County Commission.
 - (2) Mailed by County Clerk to all interested parties.
 - (3) May be appealed to Circuit Court in accordance with appellate procedure.
- b. ***Order Sustaining Objection and Directing Full Ancillary Administration.***
 - (1) Entered by County Commission.
 - (2) Mailed by County Clerk to all interested parties.
 - (3) Applicant or other interested party files and applies for regular ancillary administration.
 - (4) May be appealed to Circuit Court in accordance with appellate procedure.

Prepared: May 17, 2019

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(304) 342-1141
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IN THE COUNTY COMMISSION OF _____ COUNTY, WEST VIRGINIA

IN RE: THE ESTATE OF _____
DOD: _____

**AFFIDAVIT FOR ANCILLARY ADMINISTRATION
OF WEST VIRGINIA REAL ESTATE
WITHOUT APPOINTMENT
(TESTATE WITH AUTHENTICATED COPY)**

STATE OF _____,

COUNTY OF _____, to-wit:

I, _____, whose address is _____

being first duly sworn, upon oath and under penalty of perjury, do depose and say as follows:

1. The decedent, _____, died testate (with a will) on _____ (date of death), a resident of _____ County, State of _____, and a certified death certificate has been furnished herewith for filing in this County.

2. On _____ (date), the following person(s) was/were appointed as the personal representative(s) of the Estate of _____ by the _____ (name of foreign court), of _____ (county), _____ (state), being case number _____, if applicable:

a. Name: _____
Address: _____

b. Name: _____
Address: _____

Check () if Continuation sheet is attached

3. An authenticated copy of the Last Will and Testament of the decedent dated _____, without any codicil thereto () or with codicil(s) thereto dated _____ () [Check if applies] and the certificate of probate of such other state or jurisdiction is being furnished herewith for recording in this County.

4. The Decedent died owning and possessing the following real estate situate in West Virginia:

	Description	County	Assessed Value	Fair Market value
a.				
b.				
c.				
d.				
	From Continuation Sheets Check () if attached			
	Total			

5. Pursuant to the provisions of the Last Will and Testament of _____, the decedent devised the aforesaid real estate to the following beneficiaries of the estate:

- a. Name: _____
 Address: _____
 Relationship to Decedent: _____
 Share or percentage or particular parcel: _____

- b. Name: _____
 Address: _____
 Relationship to Decedent: _____
 Share or percentage or particular parcel: _____

- c. Name: _____
 Address: _____
 Relationship to Decedent: _____
 Share or percentage or particular parcel: _____

d. Name: _____
Address: _____
Relationship to Decedent: _____
Share or percentage or particular parcel: _____

Check () if Continuation sheet is attached

6. The Estate of _____, the decedent, will be/has been fully administered by the domiciliary personal representative under the domiciliary proceedings in the other state or jurisdiction. No appointment of an ancillary personal representative to administer the decedent's real estate within the State of West Virginia is necessary for any proper purpose.

7. I have personal knowledge of the above facts and am interested in the Estate of _____, the decedent, as the () acting domiciliary personal representative, () surviving spouse, () beneficiary under the decedent's will, () heir at law, or () other _____ (describe relationship or interest). [Check one]

Witness my hand and seal this ____ day of _____, 20__.

Signature of Affiant

Taken, subscribed, and sworn to before me the undersigned authority by _____, this ____ day of _____, 20__.

{seal}

My Commission expires: _____

Notary Public

Number of Continuation sheets attached: _____

**CONTINUATION SHEET
For
AFFIDAVIT FOR ANCILLARY ADMINISTRATION (TESTATE)**

Name of Decedent: _____

Additional Personal Representative(s):

c. Name: _____
Address: _____

d. Name: _____
Address: _____

Additional real estate situate in West Virginia:

	Description	County	Assessed Value	Fair Market value
e.				
f.				
g.				
h.				
i.				
	Check () if another Continuation Sheet is attached			
	Total			

Signature of Affiant

Date: _____

**CONTINUATION SHEET
For
AFFIDAVIT FOR ANCILLARY ADMINISTRATION (TESTATE)**

Name of Decedent: _____

Additional beneficiaries of the estate or heirs at law:

e. Name: _____
Address: _____

Relationship to Decedent: _____
Share or percentage or particular parcel: _____

f. Name: _____
Address: _____

Relationship to Decedent: _____
Share or percentage or particular parcel: _____

g. Name: _____
Address: _____

Relationship to Decedent: _____
Share or percentage or particular parcel: _____

h. Name: _____
Address: _____

Relationship to Decedent: _____
Share or percentage or particular parcel: _____

i. Name: _____
Address: _____

Relationship to Decedent: _____
Share or percentage or particular parcel: _____

Signature of Affiant

Date: _____

IN THE COUNTY COMMISSION OF _____ COUNTY, WEST VIRGINIA

IN RE: THE ESTATE OF _____
DOD: _____

**AFFIDAVIT FOR ANCILLARY ADMINISTRATION
OF WEST VIRGINIA REAL ESTATE
WITHOUT APPOINTMENT
(TESTATE WITH ORIGINAL WILL)**

STATE OF _____,

COUNTY OF _____, to-wit:

I, _____, whose address is _____,

being first duly sworn, upon oath and under penalty of perjury, do depose and say as follows:

1. The decedent, _____, died testate (with a will) on _____ (date of death), a resident of _____ County, State of _____, and a certified death certificate has been furnished herewith for filing in this County.

2. The decedent died with an ORIGINAL Last Will and Testament of the decedent dated _____, without any codicil thereto () or with codicil(s) thereto dated _____ () [Check if applies]. Pursuant to the laws of the State of _____, which was the domicile or legal residence of the decedent at his/her death, probate of such original document(s) has not been made and is not required to be made in the State of _____, as set forth in

_____ (cite statute or case law or other reason). The aforesaid ORIGINAL Last Will and Testament of the decedent, together with any codicil(s), is furnished herewith for recording in this County as permitted by West Virginia Code § 41-5-13(e).

3. Under the Last Will and Testament of the decedent, the following person(s) is/are nominated to be the personal representative(s) of the Estate of _____:

a. Name: _____
Address: _____

b. Name: _____
 Address: _____

Check () if Continuation sheet is attached

4. The Decedent died owning and possessing the following real estate situate in West Virginia:

	Description	County	Assessed Value	Fair Market value
a.				
b.				
c.				
d.				
	From Continuation Sheets Check () if attached			
	Total			

5. Pursuant to the provisions of the Last Will and Testament of _____, the decedent devised the aforesaid real estate to the following beneficiaries of the estate:

a. Name: _____
 Address: _____

 Relationship to Decedent: _____
 Share or percentage or particular parcel: _____

b. Name: _____
 Address: _____

 Relationship to Decedent: _____
 Share or percentage or particular parcel: _____

c. Name: _____
Address: _____
Relationship to Decedent: _____
Share or percentage or particular parcel: _____

d. Name: _____
Address: _____
Relationship to Decedent: _____
Share or percentage or particular parcel: _____

Check () if Continuation sheet is attached

6. No appointment of an ancillary personal representative to administer the decedent's real estate within the State of West Virginia is necessary for any proper purpose.

7. I have personal knowledge of the above facts and am interested in the Estate of _____, the decedent, as the () nominated personal representative, () surviving spouse, () beneficiary under the decedent's will, () heir at law, or () other _____ (describe relationship or interest). [Check one]

Witness my hand and seal this ____ day of _____, 20__.

Signature of Affiant

Taken, subscribed, and sworn to before me the undersigned authority by _____, this ____ day of _____, 20__.

{seal}

My Commission expires: _____

Notary Public

Number of Continuation sheets attached: _____

**CONTINUATION SHEET
For
AFFIDAVIT FOR ANCILLARY ADMINISTRATION (TESTATE)**

Name of Decedent: _____

Additional Nominated Personal Representative(s):

c. Name: _____
Address: _____

d. Name: _____
Address: _____

Additional real estate situate in West Virginia:

	Description	County	Assessed Value	Fair Market value
e.				
f.				
g.				
h.				
i.				
	Check () if another Continuation Sheet is attached			
	Total			

Signature of Affiant

Date: _____

**CONTINUATION SHEET
For
AFFIDAVIT FOR ANCILLARY ADMINISTRATION (TESTATE)**

Name of Decedent: _____

Additional beneficiaries of the estate or heirs at law:

e. Name: _____
Address: _____

Relationship to Decedent: _____
Share or percentage or particular parcel: _____

f. Name: _____
Address: _____

Relationship to Decedent: _____
Share or percentage or particular parcel: _____

g. Name: _____
Address: _____

Relationship to Decedent: _____
Share or percentage or particular parcel: _____

h. Name: _____
Address: _____

Relationship to Decedent: _____
Share or percentage or particular parcel: _____

i. Name: _____
Address: _____

Relationship to Decedent: _____
Share or percentage or particular parcel: _____

Signature of Affiant

Date: _____

IN THE COUNTY COMMISSION OF _____ COUNTY, WEST VIRGINIA

IN RE: THE ESTATE OF _____
DOD: _____

**AFFIDAVIT FOR ANCILLARY ADMINISTRATION
OF WEST VIRGINIA REAL ESTATE
WITHOUT APPOINTMENT
(INTESTATE)**

STATE OF _____,

COUNTY OF _____, to-wit:

I, _____, whose address is _____,

being first duly sworn, upon oath and under penalty of perjury, do depose and say as follows:

1. The decedent, _____, died on _____ (date of death), a resident of _____ County, State of _____. The decedent has left no will so far as I know, and no will of the decedent has been presented or probated in this State or in any other state or jurisdiction.

2. More than sixty days have passed since the death of the decedent and no personal representative or administrator of the decedent's estate has been otherwise appointed in the State of West Virginia for any proper purpose.

3. A certified death certificate has been furnished herewith for filing in this County.

4. The Decedent died owning and possessing the following real estate situate in West Virginia:

	Description	County	Assessed Value	Fair Market value
a.				
b.				

c.				
d.				
	From Continuation Sheets Check () if attached			
	Total			

5. The decedent, _____, left as his/her heirs at law in accordance with the laws of intestate descent and distribution of the State of West Virginia the following persons:

a. Name: _____
Address: _____
Relationship to Decedent: _____
Share or percentage: _____

b. Name: _____
Address: _____
Relationship to Decedent: _____
Share or percentage: _____

c. Name: _____
Address: _____
Relationship to Decedent: _____
Share or percentage: _____

d. Name: _____
Address: _____
Relationship to Decedent: _____
Share or percentage: _____

e. Name: _____
Address: _____
Relationship to Decedent: _____
Share or percentage: _____

Check () if Continuation sheet is attached

6. No appointment of an ancillary personal representative to administer the decedent's real estate within the State of West Virginia is necessary for any proper purpose.

7. I have personal knowledge of the above facts and am interested in the Estate of _____, the decedent, as the () acting domiciliary personal representative, () surviving spouse, () beneficiary under the decedent's will, () heir at law, or () other _____ (describe relationship or interest). [Check one]

Witness my hand and seal this ____ day of _____, 20__.

Signature of Affiant

Taken, subscribed, and sworn to before me the undersigned authority by _____, this ____ day of _____, 20__.

{seal}

My Commission expires: _____

Notary Public

Number of Continuation sheets attached: _____

CONTINUATION SHEET
For
AFFIDAVIT FOR ANCILLARY ADMINISTRATION (INTESTATE)

Name of Decedent: _____

Additional real estate situate in West Virginia:

	Description	County	Assessed Value	Fair Market value
e.				
f.				
g.				
h.				
i.				
j.				
k.				
l.				
	Check () if another Continuation Sheet is attached			
	Total			

 Signature of Affiant

Date: _____

CONTINUATION SHEET
For
AFFIDAVIT FOR ANCILLARY ADMINISTRATION (INTESTATE)

Name of Decedent: _____

Additional heirs at law:

f. Name: _____
Address: _____
Relationship to Decedent: _____
Share or percentage: _____

g. Name: _____
Address: _____
Relationship to Decedent: _____
Share or percentage: _____

h. Name: _____
Address: _____
Relationship to Decedent: _____
Share or percentage: _____

i. Name: _____
Address: _____
Relationship to Decedent: _____
Share or percentage: _____

j. Name: _____
Address: _____
Relationship to Decedent: _____
Share or percentage: _____

Signature of Affiant

Date: _____

IN THE COUNTY COMMISSION OF _____ COUNTY, WEST VIRGINIA

IN RE: THE ESTATE OF _____
DOD: _____

**NOTICE OF ANCILLARY ADMINISTRATION
OF WEST VIRGINIA REAL ESTATE
WITHOUT APPOINTMENT
(TESTATE)**

The undersigned Clerk of the County Commission of _____ County does hereby give NOTICE that, pursuant to the provisions of West Virginia Code § 41-5-13(b), there has been filed and there is pending before me and the said County Commission an Affidavit for ancillary administration of West Virginia real estate without the appointment of any personal representative and does state as follows:

1. The name of the decedent is _____.
The decedent died testate (with a will) on the ____ day of _____, 20__, residing at _____
(last known address), with said will of the decedent, which is dated the ____ day of _____, 20__, having been probated by the _____ Court of the County of _____, State of _____, on the ____ day of _____, 20__. The decedent died owning real estate situate in the State of West Virginia.

2. The County Commission before whom the affidavit has been filed is the County Commission of _____ County, with mailing address of _____.

3. The name and address of the person filing the affidavit is:

Such person is related to the decedent as _____.
The affidavit is dated the ____ day of _____, 20__ and was filed with the County Clerk on the ____ day of _____, 20__.

4. This Notice has been first published on the ____ day of _____, 20__.

5. Any interested person objecting to the filing of the foreign will or affidavit or objecting to the absence of appointment or administration being made in this State must file a written objection with the County Commission within sixty (60) days after the date of first publication or thirty (30) days of service of this Notice upon such interested person by the person filing the Notice, whichever is later.

NOTICE IS GIVEN THAT IF AN OBJECTION IS NOT TIMELY FILED, THE OBJECTION IS FOREVER BARRED AND THAT THE ANCILLARY ADMINISTRATION OF THE WEST VIRGINIA REAL ESTATE OF THE ABOVE DECEDENT SHALL BE DEEMED FINAL AND COMPLETE IN ACCORDANCE WITH THE PROVISIONS OF LAW.

ENTER this ____ day of _____, 20__.

Clerk of the County Commission

IN THE COUNTY COMMISSION OF _____ COUNTY, WEST VIRGINIA

IN RE: THE ESTATE OF _____
DOD: _____

**NOTICE OF ANCILLARY ADMINISTRATION
OF WEST VIRGINIA REAL ESTATE
WITHOUT APPOINTMENT
(INTESTATE)**

The undersigned Clerk of the County Commission of _____ County does hereby give NOTICE that, pursuant to the provisions of West Virginia Code § 44-1-4(b), there has been filed and there is pending before me and the said County Commission an Affidavit for ancillary administration of West Virginia real estate without the appointment of any personal representative and does state as follows:

1. The name of the decedent is _____.
The decedent died intestate (without a will) on the ____ day of _____, 20__,
residing at _____
(last known address). The decedent died owning real estate situate in the State of West Virginia. As reported in the affidavit filed herein, (a) the decedent has left no will as far as is known; (b) no will of the decedent has been presented or probated in this State or in any other jurisdiction; and (c) more than sixty days have passed since the death of the decedent and no personal representative or administrator of the decedent's estate has been otherwise appointed in the State of West Virginia for any proper purpose.

2. The County Commission before whom the affidavit has been filed is the
County Commission of _____ County, with mailing address of
_____.

3. The name and address of the person filing the affidavit is:

Such person is related to the decedent as _____.
The affidavit is dated the ____ day of _____, 20__ and was filed with the County
Clerk on the ____ day of _____, 20__.

4. This Notice has been first published on the ____ day of _____,
20__.

5. Any interested person objecting to the filing of the affidavit or objecting to the absence of appointment or administration being made in this State must file a written objection with the County Commission within sixty (60) days after the date of first publication or thirty (30) days of service of this Notice upon such interested person by the person filing the Notice, whichever is later.

NOTICE IS GIVEN THAT IF AN OBJECTION IS NOT TIMELY FILED, THE OBJECTION IS FOREVER BARRED AND THAT THE ANCILLARY ADMINISTRATION OF THE WEST VIRGINIA REAL ESTATE OF THE ABOVE DECEDENT SHALL BE DEEMED FINAL AND COMPLETE IN ACCORDANCE WITH THE PROVISIONS OF LAW.

ENTER this ____ day of _____, 20__.

Clerk of the County Commission

IN THE COUNTY COMMISSION OF _____ COUNTY, WEST VIRGINIA

IN RE: THE ESTATE OF _____
DOD: _____

**CERTIFICATE OF SERVICE
OF
NOTICE OF ANCILLARY ADMINISTRATION
OF WEST VIRGINIA REAL ESTATE
WITHOUT APPOINTMENT**

STATE OF _____,

COUNTY OF _____, to-wit:

I, _____, the undersigned, being first duly sworn, upon oath and under penalty of perjury, do hereby certify that on the ____ day of _____, 20 ____, I served a true and correct copy of the attached or foregoing "NOTICE OF ANCILLARY ADMINISTRATION OF WEST VIRGINIA REAL ESTATE WITHOUT APPOINTMENT" concerning the estate of the decedent _____ on the interested parties hereto by United States Mail, postage prepaid, addressed as follows:

- a. Name: _____
Address: _____
Relationship to Decedent: _____
- b. Name: _____
Address: _____
Relationship to Decedent: _____
- c. Name: _____
Address: _____
Relationship to Decedent: _____
- d. Name: _____
Address: _____
Relationship to Decedent: _____

e. Name: _____
Address: _____
Relationship to Decedent: _____

f. Name: _____
Address: _____
Relationship to Decedent: _____

g. Name: _____
Address: _____
Relationship to Decedent: _____

h. Name: _____
Address: _____
Relationship to Decedent: _____

i. Name: _____
Address: _____
Relationship to Decedent: _____

Check if Continuation sheet attached ()

Witness my hand and seal this ____ day of _____, 20__.

Signature of Affiant

Taken, subscribed, and sworn to before me the undersigned authority by
_____, this ____ day of _____, 20__.

{seal}

My Commission expires: _____

Notary Public

**CONTINUATION SHEET
For
CERTIFICATE OF SERVICE**

Name of Decedent: _____

Additional interested parties of the estate:

j. Name: _____
Address: _____
Relationship to Decedent: _____

k. Name: _____
Address: _____
Relationship to Decedent: _____

l. Name: _____
Address: _____
Relationship to Decedent: _____

m. Name: _____
Address: _____
Relationship to Decedent: _____

n. Name: _____
Address: _____
Relationship to Decedent: _____

Signature of Affiant

Date: _____

IMPORTANT: The party filing the foreign will or affidavit shall, not later than thirty days after the date of first publication, serve a copy of the notice at the last known address by first class mail, postage prepaid or by personal service on the following persons: (1) The decedent's surviving spouse, if any; (2) If there is a will, the personal representative or personal representatives named therein; (3) If there is a will, all devisees or beneficiaries named therein; (4) The heirs at law of the decedent determined under the laws of this State; and (5) Any known creditors of the decedent residing or located in this State or who may claim a lien or interest against the real estate of the decedent situate in this State.

IN THE COUNTY COMMISSION OF _____ COUNTY, WEST VIRGINIA

IN RE: THE ESTATE OF _____
DOD: _____

**CERTIFICATION OF COMPLETION
OF ANCILLARY ADMINISTRATION
OF WEST VIRGINIA REAL ESTATE
WITHOUT APPOINTMENT**

The undersigned Clerk of the County Commission of _____ County does hereby CERTIFY that, pursuant to the provisions of West Virginia Code § 41-5-13(b) or § 44-1-4(b), an Affidavit for ancillary administration of West Virginia real estate without the appointment of any personal representative for the above named decedent has been filed before the County Commission on the ____ day of _____, 20____, that Notice of the same was made and published as required by law on the ____ day of _____, 20____, that a Certificate of Service has been filed by the affiant on the ____ day of _____, 20____ reporting service of the Notice upon the interested parties, and that no written objection with the County Commission has been filed within sixty (60) days after the date of first publication or thirty (30) days of service of the Notice upon such interested persons by the affiant, whichever is later.

Accordingly, the undersigned Clerk of the County Commission does hereby CERTIFY that objections in this matter are forever barred and that the ancillary administration of the West Virginia real estate of the above decedent is hereby deemed final and complete in accordance with the provisions of law.

ENTER this ____ day of _____, 20__.

Clerk of the County Commission

IN THE COUNTY COMMISSION OF _____ COUNTY, WEST VIRGINIA

IN RE: THE ESTATE OF _____
DOD: _____

**ORDER AND NOTICE OF HEARING
ON
OBJECTION TO ANCILLARY ADMINISTRATION**

In relation to the Estate of _____, the County Commission **FINDS** that:

1. Pursuant to the provisions of West Virginia Code § 41-5-13(b) or § 44-1-4(b), an Affidavit for ancillary administration of West Virginia real estate without the appointment of any personal representative for the above named decedent was filed before the County Commission on the ____ day of _____, 20__ by the affiant _____;

2. Notice of the same was made and published as required by law on the ____ day of _____, 20__, and a Certificate of Service has been filed by the affiant on the ____ day of _____, 20__, reporting service of the Notice upon the interested parties; and

3. A written objection to ancillary administration of West Virginia real estate without the appointment of any personal representative has been timely filed with the County Commission on the ____ day of _____, 20__ by _____, who is an interested party concerning the Estate of the decedent.

Accordingly, pursuant to the provisions of West Virginia Code § 44-1-14b(d), it is hereby **ORDERED** that a hearing on the objection to ancillary administration of West Virginia real estate without the appointment of any personal representative shall be held in this matter before the County Commission on _____, the ____ day of _____, 20__, at _____ o'clock, at the Courthouse located at _____, at which time and place the affiant and any interested persons are hereby **NOTIFIED** to appear and take such actions as he or she deems proper, otherwise the County Commission may take such action as it deems appropriate including overruling the objection filed or entering an order directing that full and complete ancillary administration of the estate of the nonresident decedent be made in this State.

The Clerk of the County Commission is directed as provided by law to mail a copy of this Order and Notice to the affiant and all interested persons whose addresses appear in the Affidavit or at their last known addresses appearing in the records of the County Clerk.

All of which is accordingly ADJUDGED, ORDERED, and DECREED this _____
day of _____, 20__.

County Commissioner, President

County Commissioner

County Commissioner

IN THE COUNTY COMMISSION OF _____ COUNTY, WEST VIRGINIA

IN RE: THE ESTATE OF _____
DOD: _____

**ORDER OVERRULING OBJECTION
AND PERMITTING ANCILLARY ADMINISTRATION
WITHOUT APPOINTMENT**

In relation to the Estate of _____, the County Commission FINDS that:

1. Pursuant to the provisions of West Virginia Code § 41-5-13(b) or § 44-1-4(b), an Affidavit for ancillary administration of West Virginia real estate without the appointment of any personal representative for the above named decedent was filed before the County Commission on the ____ day of _____, 20__ by the affiant _____.

2. A written objection to ancillary administration of West Virginia real estate without the appointment of any personal representative has been timely filed with the County Commission on the ____ day of _____, 20__ by _____, who is an interested party concerning the Estate of the decedent.

3. On the ____ day of _____, 20__, the County Commission entered an Order and Notice to the affiant and the interested parties for a hearing in this matter which was held before the County Commission on the ____ day of _____, 20__.

4. At the hearing, upon presentation of evidence or arguments of the parties, the County Commission determined that no good cause or reason was shown by any person or otherwise known to prevent the ancillary administration of the West Virginia real estate of the Estate of the decedent _____ without the appointment of any personal representative as allowed by West Virginia law.

NOW, THEREFORE, upon consideration of all of the above, the County Commission, pursuant to the provisions of West Virginia Code § 44-1-14b(d), hereby **OVERRULES** the objection and hereby **ORDERS** that the ancillary administration of the West Virginia real estate of the Estate of the decedent _____ is hereby deemed final and complete in accordance with the provisions of law.

The Clerk of the County Commission is directed as provided by law to mail a copy of this Order to the affiant and all interested persons whose addresses appear in the Affidavit or at their last known addresses appearing in the records of the County Clerk.

All of which is accordingly ADJUDGED, ORDERED, and DECREED this _____
day of _____, 20__.

County Commissioner, President

County Commissioner

County Commissioner

IN THE COUNTY COMMISSION OF _____ COUNTY, WEST VIRGINIA

IN RE: THE ESTATE OF _____
DOD: _____

**ORDER SUSTAINING OBJECTION
AND DIRECTING FULL ANCILLARY ADMINISTRATION**

In relation to the Estate of _____, the County Commission **FINDS** that:

1. Pursuant to the provisions of West Virginia Code § 41-5-13(b) or § 44-1-4(b), an Affidavit for ancillary administration of West Virginia real estate without the appointment of any personal representative for the above named decedent was filed before the County Commission on the ____ day of _____, 20__ by the affiant _____.

2. A written objection to ancillary administration of West Virginia real estate without the appointment of any personal representative has been timely filed with the County Commission on the ____ day of _____, 20__ by _____, who is an interested party concerning the Estate of the decedent.

3. On the ____ day of _____, 20__, the County Commission entered an Order and Notice to the affiant and the interested parties for a hearing in this matter which was held before the County Commission on the ____ day of _____, 20__.

4. At the hearing, upon presentation of evidence or arguments of the parties, the County Commission determined that good cause or reason was shown which would require full and complete ancillary administration of the West Virginia real estate of the Estate of the decedent _____.

NOW, THEREFORE, upon consideration of all of the above, the County Commission, pursuant to the provisions of West Virginia Code § 44-1-14b(d), hereby **SUSTAINS** the objection and hereby **ORDERS** that the personal representative, affiant, or other proper party, as the case may be, is directed to make application to the County Clerk of this County for full and complete ancillary administration and probate of the Estate of the decedent _____ in accordance with all of the provisions of the laws of the State of West Virginia.

The Clerk of the County Commission is directed as provided by law to mail a copy of this Order to the affiant and all interested persons whose addresses appear in the Affidavit or at their last known addresses appearing in the records of the County Clerk.

All of which is accordingly ADJUDGED, ORDERED, and DECREED this ____
day of _____, 20__.

County Commissioner, President

County Commissioner

County Commissioner

**WV CENTER FOR
END-OF-LIFE CARE RESOURCES**



West Virginia Center for End-of-Life Care

Questions? **(877) 209-8086**

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WV E-DIRECTIVE REGISTRY

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FOR PROVIDERS

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RESOURCES

EVENTS AND EDUCATION

FAQ

VIDEO TESTIMONIALS

TRIBUTES

CONTACT

SUPPORT THE CENTER



WV Center for End of Life Care Resources

- **WV Center for End-of-Life Care -**
 - Established by the WV Legislature
 - the West Virginia Center for End-of-Life Care provides coordination, education, and resources so that West Virginians will 1) have their preferences for care at the end of life identified and respected through advance care planning, 2) die in the setting of their choice with the option of palliative care and hospice, and 3) die comfortably with the availability of appropriate pain and symptom management.

- www.wvendoflife.org
 - **FORMS**
 - **WV e-Directive Registry**
 - E-Directive Registry Opt-In Form
 - Release of Information Request for patients and their representatives
 - Release of Information Request for health care providers

 - **Advance Directives**
 - Advance Care Planning Resource List
 - Frequently Asked Questions and Forms
 - WV Living Will
 - WV Medical Power of Attorney
 - WV Combined Living Will/Medical Power of Attorney
 - WV Mental Health Advance Directive (MHAD)
 - Advance Directive Revocation Form

 - **Medical Orders**
 - POST brochure
 - Do Not Resuscitate (DNR) brochure

 - **Other forms**
 - Surrogate selection checklist

 - **ADDITIONAL RESOURCES**
 - Conversation resources
 - How to Talk to Your Doctor (English)
 - For the Conversation Guide in other languages, please visit <https://theconversationproject.org/starter-kits/>

 - **Being a medical representative**
 - Job Description for being a MPOA representative or health care surrogate

 - **Palliative Care resources**
 - Palliative Care brochure
 - Palliative Care Resource List
 - For the most current information on palliative care, visit the Get Palliative Care website.

- **Hospice resources**
 - Hospice Services in the Nursing Home Facility brochure
- **Grief and loss resources**
 - For the most current information on grief and loss visit the National Hospice and Palliative Care Organization website at CaringInfo, the Pathways Center for Grief and Loss website, or call or visit the National 2-1-1 hotline for local resources.
- *for Providers*
- **Conversation resources**
 - Why and How to have End-of-Life Discussions with Your Patients
 - The Ask-Tell-Ask Approach to Starting Conversations with Seriously Ill Patients
- **Decision Making**
 - Assessing Decision Making Capacity
 - Mature Minors and Emancipated Minors Authority to Make Medical Decisions
 - Health Care Decision Making for Adult Patients Flow Chart
- **POST Program**
 - Using the POST Form: Guidance for Health Care Professionals
 - Nursing Home Model Policy for the WV POST form
- **Life-prolonging interventions**
 - Annotated Bibliography of Evidence-Based Research on the Use of Feeding Tubes (updated August 2016)

HEALTH CARE FORMS



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WV HEALTH CARE DECISIONS ACT UNDERGOES MAJOR REVISIONS

New advance directives and more for first time in 20 years

March 28, 2022



West Virginia Center for
End-of-Life Care

For the first time in 20 years, the West Virginia Health Care Decisions Act has undergone a major revision. The WV Health Care Decisions Act was originally passed in 2000 and revised in 2002 to add Physician Orders for Scope of Treatment (POST), a medical order, into law. Despite scope of practice expansions resulting in signatory authority for medical orders with

both advanced practice registered nurses (APRNs) and physician assistants (PAs) in 2016 and 2017, the WV Health Care Decisions Act has not been revised in full since 2002.

Passed during the 2022 Regular Session and approved by the Governor on March 23, 2022
Senate Bill (SB) 470:

- changes the language in all major advance directives (Medical Power of Attorney, Living Will and the Combined Medical Power of Attorney and Living Will);
- clearly incorporates the previous changes in practice acts for APRNs and PAs;
- clarifies the wording of the Living Will and Combined Medical Power of Attorney and Living Will;
- removes persistent vegetative state from both the Living Will and the Combined Medical Power of Attorney and Living Will;
- redefines life-prolonging interventions;
- clarifies the removal or refusal of life-prolonging interventions, such as cardiopulmonary resuscitation, ventilators, dialysis and medically administered food and fluids, through the Living Will and Combined Medical Power of Attorney and Living Will;
- reinforces that oral food and fluids should always be offered as desired and tolerated;
- adds prompts for mental health treatment, funeral arrangements, autopsy and organ donation in the special directives and limitations sections of all advance directives;
- changes the language of the POST form from “Physician Orders for Scope of Treatment” to “Portable Orders for Scope of Treatment” to be more inclusive of all practitioners with signatory authority while also better describing the medical order’s portability;
- adds formal reciprocity for advance directives and medical orders validly executed in other states; and
- updates language to be more reader friendly.

The new version of the WV Health Care Decisions Act (SB 470) becomes effective June 7, 2022 and requires all healthcare facilities to update the forms they provide to patients no later than January 1, 2023. Advance directives and medical orders completed prior to this bill are still valid and effective.

For more information about the amendments to the West Virginia Health Care Decisions Act and to obtain the new forms, visit the West Virginia Center for End-of-Life Care website, www.wvendoflife.org, or call toll free 877-209-8086.

The West Virginia Center for End-of-Life Care is a nonprofit, state agency created with the purpose of educating and assisting West Virginia residents (patients) and healthcare providers with advance care planning. It is located in the Health Sciences Center of West Virginia University in Morgantown, W.Va.

OTHER RECENT STORIES

HIPAA AUTHORIZATION FORM

Dated: _____, 20 ____.

I, _____, hereby authorize use or disclosure of protected health information about me as described below.

1. My full name, date of birth, social security number, address and telephone number are as follows:

Full Legal Name: _____
Date of Birth: _____
Address: _____

Social Security Number: _____
Telephone No.: _____

2. The following specific person/class of person/facility is authorized to use or disclose information about me:

Any physician, dentist, psychiatrist, psychologist, other health care professional, medical provider, mental health care provider, health plan, hospital, clinic, laboratory, pharmacy or any other health care provider, and any insurance company.

3. The following person (or class of persons) may receive disclosure of protected health information about me:

4. The specific information that should be disclosed is:

I intend for the persons listed in Paragraph 3 above to be treated as I would with regard to the use and dissemination of my individually identifiable health information and medical records ("Protected Health Information"). This authority applies to any information governed by the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), 42 USC 1320d and 45 CFR 160-164. More specifically, such information may include, but not be limited to, any and all information you may have regarding my condition while under your observation including the history obtained, records, x-rays, reports or copies thereof relating to my examination, consultation, confinement or treatment and physical findings, diagnosis and prognosis, and to permit them to inspect and make copies or abstracts thereof. You are also authorized to send any psychiatric, drug and/or alcoholic information if applicable, and disclose protected health information from any

itemized statement.

UNLESS YOU SIGN HERE, NO INFORMATION ABOUT ALCOHOL/SUBSTANCE ABUSE, HIV/AIDS, OR MENTAL HEALTH WILL BE DISCLOSED:

YES, DISCLOSE THIS INFORMATION _____

NO, DO NOT DISCLOSE THIS INFORMATION _____

- 5. I understand that the information used or disclosed may be subject to re-disclosure by the person or class of persons or facility receiving it, and would then no longer be protected by federal privacy regulations.
- 6. I may revoke this authorization in writing by executing a document expressing my desire to revoke it. However, I understand that any action already taken in reliance on this authorization cannot be reversed, and my revocation will not affect those actions.
- 7. My purpose/use of the information is for:
To provide full, complete and open access to the individuals listed in Paragraph 3 to all information relating to and regarding my health and medical condition.
- 8. Unless revoked in writing, this authorization shall be valid until _____.
- 9. A facsimile, copy or photocopy of this authorization may be used in place of and with the same force and effect as the original.

Signature

STATE OF WEST VIRGINIA,
COUNTY OF _____, TO-WIT:

This document was acknowledged before me on the _____ day of _____, 20____,
by _____.

My commission expires: _____.

(SEAL) _____
Notary Public

SAMPLE HIPAA AUTHORIZATION FORM

Patient's Full Name Patient's Social Security Number/Medical Record Number

Address Patient's Date of Birth

City, State Zip Code Patient's Telephone Number

I hereby authorize use or disclosure of protected health information about me as described below.

- 1. The following specific person/class of person/facility is authorized to use or disclose information about me:
2. The following person (or class of persons) may receive disclosure of protected health information about me:

His/her/its Name

Address

City, State Zip Code

- 3. The specific information that should be disclosed is (please give dates of service if possible):

UNLESS YOU SIGN HERE, NO INFORMATION ABOUT ALCOHOL/SUBSTANCE ABUSE, HIV/AIDS, OR MENTAL HEALTH WILL BE DISCLOSED:

YES, DISCLOSE THIS INFORMATION *

NO, DO NOT DISCLOSE THIS INFORMATION *

- 4. I understand that the information used or disclosed may be subject to re-disclosure by the person or class of persons or facility receiving it, and would then no longer be protected by federal privacy regulations.
5. I may revoke this authorization by notifying in writing of my desire to revoke it. However, I understand that any action already taken in reliance on this authorization cannot be reversed, and my revocation will not affect those actions.
6. My purpose/use of the information is for
7. This authorization expires on, 200, OR upon occurrence of the following event that relates to me or to the purpose of the intended use or disclosure of information about me:

FEES FOR COPIES: Federal and state laws permit a fee to be charged for the copying of patient records. This facility has contracted with HealthPort to make copies. You may be required to pre-pay for the copies; if not, then your copies will be mailed along with an invoice.

THIS FORM MUST BE FULLY COMPLETED BEFORE SIGNING - note that signature is required in two places.*

Signature of Individual* (The person about whom the information relates) OR, if applicable - Date of Individual's Signature Date of Birth or Social Security Number

Signature of Guardian* or Personal Representative of Patient's Estate Date of Guardian's/Personal Representative's Signature Description of Authority to Act for the Individual

A copy of this completed, signed and dated form must be given to the Individual or other signator.

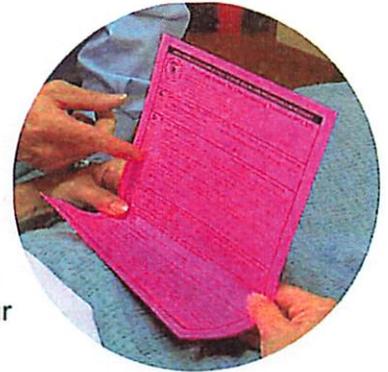
Official Use Only

Received Processed By Log #

West Virginia

POST

A Participating Program of National POLST



What is the WV POST program?

- **A process** – part of your advance care plan to document your wishes
- **A conversation** – talk with your health care provider about your wishes and medical condition
- **A portable medical order form** – the form puts your wishes into medical orders so that health care providers know and respect them when you cannot speak for yourself

What should be discussed in the POST conversation?

- **Your diagnosis.** What illness(es) or medical conditions do you have?
- **Your prognosis.** What is the likely to happen over time with your medical condition? How serious is it? How long might you have to live?
- **Treatment options.** Given your condition and how serious it is, what are your treatment choices? How would they help? What are the side effects?
- **Goals of care.** What is important to you? What makes life worth living for you? What would you NOT want?

What is a POST form? The POST form is a medical order that helps health care providers know and honor the treatment wishes of individuals who are considered to be at risk for a life-threatening event.

The POST form tells them what you want such as:

- “Take me to the hospital” or “I want to stay here”
- “Yes, attempt CPR” or “No, don’t attempt CPR”
- “These are the medical treatments I want”
- “This is the care plan I want followed”

Who can honor a POST form as a health care provider? The POST form can be honored by all health care providers including the rescue squad (EMS) and the emergency department.

How is a POST form different from an advance directive or do-not-resuscitate (DNR) card? A POST form provides specific treatment directions and is completed with a health care provider. The POST form is more specific than advance directives and has more options than a DNR card.

During emergencies, EMS and emergency department providers can only follow medical orders such as a POST form. If someone does not have a medical order, EMS providers will attempt everything possible to keep you alive, including CPR.

Who should get a POST form? Anyone who has a serious life-limiting medical condition which may include advanced frailty. WV POST is for the **seriously ill or very frail.**





West Virginia POST
HUMAN RIGHTS DECLARATION OF POST ORDERS TO HEALTH CARE PROVIDERS AS NECESSARY FOR TREATMENT
(SEND FORM TO: PARENT OR NEXT OF KIN, TRANSFERRED OR DESIGNATED)

West Virginia POST Form
Adapted from the National POST form and is compliant with WV Code §16-2B-6

NOTE: This form is a medical order and is not intended to be used in place of a physician's or other health care provider's orders. It is not intended to be used in place of a physician's or other health care provider's orders. It is not intended to be used in place of a physician's or other health care provider's orders.

Patient Information: Having a POST form is always voluntary.

THIS IS A MEDICAL ORDER, NOT AN ADVANCE DIRECTIVE.

Printed Full Name: _____
Last Name: _____
First Name: _____
Middle Name: _____
Date of Birth: _____
Sex: _____
Race: _____
Ethnicity: _____
Address: _____
City: _____
State: _____
Zip: _____
Phone: _____

A. Cardiopulmonary Resuscitation Orders: Follow these orders if patient has no pulse and is not breathing.

YES CPR, Arrest Resuscitation, including mechanical ventilation, defibrillation and cardiopulmonary bypass.

NO CPR, Do Not Attempt Resuscitation (Do Not Attempt Resuscitation).

B. Inhaled Treatment Orders: Follow these orders if patient has a pulse and is breathing.

Full Treatments (Required if Patient CPR in Section A)

Selective Treatments

Comfort-focused Treatments

C. Additional Orders or Instructions: These orders are in addition to those above. (e.g., blood products, dialysis, etc.)

D. Medication Assisted Nutrition (If Not by Mouth if Desired by Patient, Safe, and Feasible)

Provide feeding through nasogastric or orogastric tube.

Do not provide feeding through nasogastric or orogastric tube.

Do not provide enteral nutrition.

Do not provide enteral nutrition.

E. SIGNATURE: Patient or Patient Representative (If Patient is Incompetent, Designated Surrogate, or Legally Incapacitated)

Signature: _____
Printed Name: _____
Relationship to Patient: _____
Date: _____

F. SIGNATURE: Health Care Provider (Physician, Nurse Practitioner, or Physician Assistant)

Signature: _____
Printed Name: _____
Title: _____
Date: _____

Why should I complete a POST form? The WV POST form provides more information and choices than advance directives and a DNR order alone. The WV POST form can be honored by EMS providers in the event of an emergency. Without a medical order, EMS providers cannot honor wishes not to be resuscitated if your heart stops beating.

When should a POST form be completed? The WV POST form should be completed after a conversation with your health care provider and only if you are seriously ill or very frail.

How do I get a POST form? Because the POST form is a medical order and must be completed with a health care provider, you should contact your health care provider to complete a POST form. Under the law, you and your health care provider must both sign the POST form.

You should discuss the various treatments on the form with your health care provider and then review it before signing it to make sure the orders are what you want.

Where do I keep my POST form? When you go to the doctor or hospital, take the POST form with you. If you live at home, you should keep the POST form on your refrigerator. If you live in a nursing home or personal care home, your form will be kept in the front of your medical chart. If you are a patient in the hospital, your form will be kept in your medical chart during your stay. Make sure you take your POST form home with you when you are discharged from the hospital or nursing home.

Send your POST form to the WV e-Directive Registry so that your wishes will be known and available in emergencies. Learn more: <http://wvendooflife.org/wv-e-directive-registry/>

If I complete a POST form and later change my mind, can I change my wishes on the POST form? Absolutely! The POST form can be updated whenever there is a change in your medical condition or if you change your wishes for medical care. Your health care provider should also review your POST form with you any time you get sick and are admitted to the hospital. You can cancel your POST form by writing "VOID" across it and informing your health care provider and WV e-Directive Registry of the change.





1-877-209-8086
<https://wvendlife.org>

Frequently Asked Questions about the Combined Medical Power of Attorney and Living Will

This booklet is based on the revised West Virginia Health Care Decisions Act passed by the West Virginia Legislature in March 2022 and effective June 2022. The Center hopes that this booklet will help West Virginians with advance care planning. The Center's website at <https://wvendlife.org> contains a copy of the West Virginia Health Care Decisions Act and additional downloadable forms. The information provided on this website does not, and is not intended to, constitute legal advice; instead, all information, content, and materials available on this site are for general informational purposes only. For legal advice, please consult your attorney.

Revised June 2022

- **What is a medical power of attorney?**

A medical power of attorney is a legal document, a type of advance directive, that allows you to name a person to make health care decisions for you if you are unable to make them for yourself. The medical power of attorney only goes into effect if you are too sick to make decisions for yourself. If you regain decision-making ability, the medical power of attorney is no longer in effect, and you will be able to speak for yourself again.

The medical power of attorney allows your representative to respond to medical situation that you might not have anticipated and to make decisions for you based on knowledge of your values and wishes. Medical power of attorney representatives (the people you select to make decisions for you) can never override your written, expressed wishes.

- **What is a living will?**

A living will is a legal document, a type of advance directive, that tells your doctor how you want to be treated if you are terminally ill and cannot make decisions for yourself. A living will states that life-prolonging medical interventions that would serve solely to prolong your dying should not be used. A living will only applies if you are terminally ill AND too sick to make decisions for yourself.

- **Can I combine my living will and medical power of attorney in one form?**

Yes. You can use one document that combines both the living will and the medical power of attorney forms. This is called the Combined Medical Power of Attorney and Living Will and is contained in this packet.

- **Can I still make my own health care decisions once I have completed a combined medical power of attorney and living will form?**

Yes. Your medical power of attorney portion of the form does not become effective until you are unable to make decisions for yourself. Your living will portion of the form does not become effective until you are terminally ill AND unable to make decisions for yourself. As long as you can speak for yourself, you have the right to make your own decisions.

- **Can any person create a combined medical power of attorney and living will form?**

Yes. Any adult (including mature or emancipated minors) who has the ability to make decisions for themselves can complete a combined medical power of attorney and living will form.

- **Do I need a lawyer to create a medical power of attorney?**

No. Anyone can complete a WV advance directive without the assistance of a lawyer. Visit the Center's website, <https://wvendlife.org>, or call the Center at 877-209-8086 to obtain free WV advance directive forms.

- **Will another state honor my medical power of attorney?**

Laws differ somewhat from state to state, but in general, a patient's expressed wishes will be honored state-to-state. It is highly recommended that you contact your non-WV health care providers to ask if they will honor your WV advance directive.

In WV, it is legally required for health care providers to honor non-WV advance directives and medical orders as of June 7, 2022 as long as the forms were completed correctly per that state's laws.

- **What should I do with my combined medical power of attorney and living will after I sign it?**

After your advance directive is signed, witnessed, and notarized, keep the original document in a safe location where it can be easily found. A photo copy of your advance directive is legally valid. You are encouraged to submit your form to the WV e-Directive Registry by faxing it to 844-616-1415 or mailing a copy to the WV e-Directive Registry, 64 Medical Center Drive, PO Box 9022 Health Sciences North, Morgantown, WV 26506-9022

Full Name (Last, First, Middle): _____

Address: _____

City/State/Zip: _____

Date of Birth (mm/dd/yyyy): _____/_____/_____

Last 4 SSN: _____ Sex: M _____ F _____

WV e-Directive Registry Opt In

[HTTPS://WVENDOFLIFE.ORG/REGISTRY](https://wvendoflife.org/registry)

The WV e-Directive Registry makes your forms immediately available to your health care providers in emergencies. If you agree to have this form and any other submitted forms included in the WV e-Directive registry and released to treating health care providers, please mark below.

YES, I OPT IN

NO, I DON'T OPT IN

Registry toll-free number: 877-209-8086

Registry FAX: 844-616-1415

STATE OF WEST VIRGINIA

COMBINED MEDICAL POWER OF ATTORNEY AND LIVING WILL

*The Person I Want to Make Health Care Decisions For Me When I Can't Make Them for Myself
AND*

The Kind of Medical Treatment I Want and Don't Want If I Have A Terminal Condition

Dated: _____, 20_____

I, _____
(Insert your name and address)

hereby appoint as my representative to act on my behalf to give, withhold, or withdraw informed consent to health care decisions in the event that I am not able to do so myself.

The person I choose as my representative is (One person):

(Insert the name, address, area code, and telephone number of the person you wish to designate as your representative. Please insert only one name.)

The person I choose as my successor representative is (One person):

If my representative is unable, unwilling, or disqualified to serve, then I appoint

(Insert the name, address, area code, and telephone number of the person you wish to designate as your successor representative. Please insert only one name.)

Principal Name: _____

(Insert your name)

This appointment shall extend to, but not be limited to, health care decisions relating to medical treatment, surgical treatment, nursing care, medication, hospitalization, care and treatment in a nursing home or other facility, and home health care. The representative appointed by this document is specifically authorized to be granted access to my medical records and other health information and to act on my behalf to consent to, refuse, or withdraw any and all medical treatment or diagnostic procedures, or autopsy if my representative determines that I, if able to do so, would consent to, refuse, or withdraw such treatment or procedures. Such authority shall include, but not be limited to, decisions regarding the withholding or withdrawal of life-prolonging interventions, subject to the special directives and limitations as stated below:

1. IN A TERMINAL CONDITION: If I am very sick and unable to communicate my wishes for myself and I am certified by one physician, who has personally examined me, to have a terminal condition, I direct that life-prolonging intervention that would serve solely to prolong the dying process be withheld or withdrawn. Thus, if a physician has determined that I am in a terminal condition, I understand that completing this form would mean that I refuse cardiopulmonary resuscitation (CPR). It also means that I refuse or request the removal of a breathing machine (ventilator), dialysis, and medically administered food and fluids, such as might be provided intravenously or by feeding tube. I want to be allowed to die naturally and only be given medications or other medical procedures necessary to keep me comfortable. I want to receive as much medication as is necessary to alleviate my pain. Nevertheless, oral food and fluids, such as may be provided by spoon or by straw, shall be offered as desired and can be tolerated.

2. OTHER LIVING WILL SPECIAL DIRECTIVES OR LIMITATIONS ON THIS POWER: Comments about mental health treatment, funeral arrangements, autopsy, and organ donation may be placed here. My failure to provide special directives or limitations does not mean that I want or refuse certain treatments.

In exercising the authority under this medical power of attorney, my representative shall act consistently with my special directives or limitations as stated in this advance directive.

3. NOT IN A TERMINAL CONDITION: MEDICAL POWER OF ATTORNEY SPECIAL DIRECTIVES OR LIMITATIONS ON THIS POWER: Comments about tube feedings, breathing machines, cardiopulmonary resuscitation, dialysis, mental health treatment, funeral arrangements, autopsy and organ donation may be placed here. My failure to provide special directives or limitations does not mean that I want or refuse certain treatments.

I appoint this representative because I believe this person understands my wishes and values and will act to carry into effect the health care decisions that I would make if I were able to do so and because I also believe that this person will act in my best interest when my wishes are unknown. It is my intent that my family, my physician, and all legal authorities be bound by the decisions that are made by the representative appointed by this document and it is my intent that these decisions should not be the subject of review by any health care provider or administrative or judicial agency.

It is my intent that this document be legally binding and effective and that this document be taken as a formal statement of my desire concerning the method by which any health care decisions should be made on my behalf during any period when I am unable to make such decisions.

THIS MEDICAL POWER OF ATTORNEY SHALL BECOME EFFECTIVE ONLY UPON MY INCAPACITY TO GIVE, WITHHOLD, OR WITHDRAW INFORMED CONSENT TO MY OWN MEDICAL CARE.

DATE _____
Signature of the Principal (Sign your name)

Address of the Principal (Write your full address)

I did not sign the principal's signature above for or at the direction of the principal. I am at least 18 years of age and am not related to the principal by blood or marriage, nor entitled to any portion of the estate of the principal to the best of my knowledge under any will of principal or codicil thereto, nor directly financially responsible for principal's medical care. I am not the principal's attending physician or the principal's medical power of attorney representative or successor medical power of attorney representative under a medical power of attorney.

Witness _____ DATE _____

Witness _____ DATE _____

STATE OF _____ COUNTY OF _____

I, _____, a Notary Public of said County, do certify that _____, as principal, and _____ and _____, as witnesses, whose names are signed to the writing above bearing date on the _____ day of _____, 20_____, have this day acknowledged the same before me.

Given under my hand this _____ day of _____, 20____.

My commission expires: _____

Signature of Notary Public

Insert Notary Stamp Above

**COMBINED MEDICAL POWER OF ATTORNEY
AND LIVING WILL**

**The Person I Want to Make Health Care Decisions For Me When I Can't Make
Them for Myself And The Kind of Medical Treatment I Want and Don't Want
If I Have a Terminal Condition ~~or Am in a Persistent Vegetative State~~**

Dated: _____, 20____

I, _____, hereby (*Insert
your name and address*) hereby appoint as my representative to act on my behalf to give,
withhold or withdraw informed consent to health care decisions in the event that I am ~~not~~ unable
to do so myself.

The person I choose as my representative is:

*(Insert the name, address, area code and telephone number of the person you wish to
designate as your representative. Please insert only one name.)*

**If my representative is unable, unwilling, or disqualified to serve, then I appoint as
my successor representative:**

*(Insert the name, address, area code and telephone number of the person you wish to
designate as your successor representative. Please insert only one name.)*

This appointment shall extend to, but not be limited to, health care decisions relating to
medical treatment, surgical treatment, nursing care, medication, hospitalization, care and
treatment in a nursing home or other facility, and home health care. The representative appointed
by this document is specifically authorized to be granted access to my medical records and other
health information and to act on my behalf to consent to, refuse, or withdraw any and all medical
treatment or diagnostic procedures, or autopsy if my representative determines that I, if able to
do so, would consent to, refuse, or withdraw such treatment or procedures. Such authority shall
include, but not be limited to, decisions regarding the withholding or withdrawal of life-prolonging
interventions, subject to the special directives and limitations as stated below:

~~I appoint this representative because I believe this person understands my wishes and
values and will act to carry into effect the health care decisions that I would make if I were able to
do so, and because I also believe that this person will act in my best interest when my wishes are
unknown. It is my intent that my family, my physician, and all legal authorities be bound by the
decisions that are made by the representative appointed by this document, and it is my intent that~~

~~these decisions should not be the subject of review by any health care provider or administrative or judicial agency.~~

~~It is my intent that this document be legally binding and effective and this this document be taken as a formal statement of my desire concerning the method by which any health care decisions should be made on my behalf during any period when I am unable to make such decisions.~~

~~In exercising the authority under this medical power of attorney, my representative shall act consistently with my special directors or limitations as stated below.~~

~~I am giving the following SPECIAL DIRECTIVES OR LIMITATIONS ON THIS POWER: (Comments about tube feedings, breathing machines, cardiopulmonary resuscitation, dialysis, mental health treatment, funeral arrangements, autopsy, and organ donation may be placed here. My failure to provide special directives or limitations does not mean that I want or refuse certain treatments)~~

1. IN A TERMINAL CONDITION: If I am very sick and not unable to communicate my wishes for myself and I am certified by one physician, who has personally examined me, to have a terminal condition, ~~to be in a persistent vegetative state (I am unconscious and am neither aware of my environment nor able to interact with others,)~~ I direct that life-prolonging medical intervention that would serve solely to prolong the dying process ~~or maintain me in a persistent vegetative state~~ be withheld or withdrawn. Thus, if a physician has determined that I am in a terminal condition, I understand that completing this form would mean that I refuse cardiopulmonary resuscitation (CPR). It also means that I refuse or request the removal of a breathing machine (ventilator), dialysis, and medically administered food and fluids, such as might be provided intravenously or by feeding tube. I want to be allowed to die naturally and only be given medications or other medical procedures necessary to keep me comfortable. I want to receive as much medication as is necessary to alleviate my pain. Nevertheless, oral food and fluids, such as may be provided by spoon or by straw, shall be offered as desired and can be tolerated.

2. OTHER DIRECTIVES: OTHER LIVING WILL SPECIAL DIRECTIVES OR LIMITATIONS ON THIS POWER: Comments about mental health treatment, funeral arrangements, autopsy, and organ donation may be placed here. My failure to provide special directives or limitations does not mean that I want or refuse certain treatments.

In exercising the authority under this medical power of attorney, my representative shall act consistently with my special directives or limitations as stated in this advance directive.

3. NOT IN A TERMINAL CONDITION: MEDICAL POWER OF ATTORNEY SPECIAL DIRECTIVES OR LIMITATIONS ON THIS POWER: (Comments about tube feedings, breathing machines, cardiopulmonary resuscitation, dialysis, mental health treatment, funeral arrangements, autopsy and organ donation may be placed here. My failure to provide special directives or limitations does not mean that I want or refuse certain treatments.)

I appoint this representative because I believe this person understands my wishes and values and will act to carry into effect the health care decisions that I would make if I were able to do so, and because I also believe that this person will act in my best interest when my wishes are unknown. It is my intent that my family, my physician, and all legal authorities be bound by the decisions that are made by the representative appointed by this document, and it is my intent that these decisions should not be the subject of review by any health care provider or administrative or judicial agency.

It is my intent that this document be legally binding and effective and that this document be taken as a formal statement of my desire concerning the method by which any health care decisions should be made on my behalf during any period when I am unable to make such decisions.

THIS MEDICAL POWER OF ATTORNEY SHALL BECOME EFFECTIVE ONLY UPON MY INCAPACITY TO GIVE, WITHHOLD OR WITHDRAW INFORMED CONSENT TO MY OWN MEDICAL CARE.

Signature of the Principal

Address of Principal

I did not sign the principal's signature above. I am at least 18 years of age and am not related to the principal by blood or marriage. I am not entitled to any portion of the estate of the principal or to the best of my knowledge under any will of the principal or codicil thereto, or nor legally responsible for the costs of the principal's medical or nor other care. I am not the principal's attending physician, nor am I the representative or successor representative of the principal.

Witness _____ DATE _____

Witness _____ DATE _____

STATE OF _____

COUNTY OF _____

I, _____, a Notary Public of said county, do certify that _____, as principal, and _____ and _____, as witnesses, whose names are signed to the writing above bearing date on the ____ day of _____, 20____, have this day acknowledged the same before me.

Given under my hand this ____ day of _____, 20____.

My commission expires: _____

Signature of Notary Public

**GENERAL DURABLE POWER OF
ATTORNEY FORMS**

**STATE OF WEST VIRGINIA
STATUTORY FORM POWER OF ATTORNEY**

IMPORTANT INFORMATION

This power of attorney authorizes another person (your agent) to make decisions concerning your property for you (the principal). Your agent will be able to make decisions and act with respect to your property (including your money) whether or not you are able to act for yourself. The meaning of authority over subjects listed on this form is explained in the Uniform Power of Attorney Act, West Virginia Code § 39B-1-1, et seq.

This power of attorney does not authorize the agent to make health-care decisions for you.

You should select someone you trust to serve as your agent. Unless you specify otherwise, generally the agent's authority will continue until you die or revoke the power of attorney or the agent resigns or is unable to act for you.

Your agent is entitled to reasonable compensation unless you state otherwise in the special instructions.

This form provides for designation of one agent. If you wish to name more than one agent you may name a coagent in the Special Instructions. Coagents are not required to act together unless you include that requirement in the Special Instructions. If your agent is unable or unwilling to act for you, your power of attorney will end unless you have named a successor agent. You may also name a second successor agent.

This power of attorney becomes effective immediately unless you state otherwise in the Special Instructions.

If you have questions about the power of attorney or the authority you are granting to your agent, you should seek legal advice before signing this form.

DESIGNATION OF AGENT

I, _____, hereby name the following person as my agent:

Name of Agent: _____

Agent's Address: _____

Agent's Telephone Number: _____

If my agent is unable or unwilling to act for me, I name as my first successor agent:

Name of My First
Successor Agent: _____

Address: _____

Telephone Number: _____

If my first successor agent is unable or unwilling to act for me, I name as my second successor agent:

Name of My Second
Successor Agent: _____

Address: _____

Telephone Number: _____

GRANT OF GENERAL AUTHORITY

I grant my agent and any successor agent general authority to act for me with respect to the following subjects as defined in the Uniform Power of Attorney Act, West Virginia Code § 39B-1-1, *et seq.*:

(INITIAL each subject you want to include in the agent's general authority. If you wish to grant general authority over all of the subjects you may initial "All Preceding Subjects" instead of initialing each subject.)

- Real Property.
- Tangible Personal Property.
- Stocks and Bonds.
- Commodities and Options.
- Banks and Other Financial Institutions.
- Operation of Entity or Business.
- Insurance and Annuities.
- Estates, Trusts, and Other Beneficial Interests.
- Claims and Litigation.
- Personal and Family Maintenance.
- Benefits from Governmental Programs or Civil or Military Service.
- Retirement Plans.
- Taxes.
- All Preceding Subjects.

GRANT OF SPECIFIC AUTHORITY (OPTIONAL)

MY AGENT MAY NOT DO ANY OF THE FOLLOWING SPECIFIC ACTS FOR ME UNLESS I HAVE INITIALED THE SPECIFIC AUTHORITY LISTED BELOW:

(CAUTION: Granting any of the following will give your agent the authority to take actions that could significantly reduce your property or change how your property is distributed at your death. INITIAL ONLY the specific authority you WANT to give your agent.)

- Create, amend, revoke, or terminate an inter vivos trust.
- Make a gift, subject to the limitations of the West Virginia Uniform Power of Attorney Act and any special instructions in this power of attorney.

- Create or change rights of survivorship.
- Create or change a beneficiary designation.
- Authorize another person to exercise the authority granted under this power of attorney.
- Waive the principal's right to be a beneficiary of a joint and survivor annuity, including a survivor benefit under a retirement plan.
- Exercise fiduciary powers that the principal has authority to delegate.
- Disclaim or refuse an interest in property, including a power of appointment.
- Access the content of electronic communications.

LIMITATION ON AGENT'S AUTHORITY

An agent that is not my ancestor, spouse, or descendant **MAY NOT** use my property to benefit the agent or a person to whom the agent owes an obligation of support unless I have included that authority in the Special Instructions.

SPECIAL INSTRUCTIONS (OPTIONAL)

You may give special instructions on the following lines:

EFFECTIVE DATE

This power of attorney is effective immediately unless I have stated otherwise in the special instructions stated above.

NOMINATION OF CONSERVATOR OR GUARDIAN (OPTIONAL)

If it becomes necessary for a court to appoint a conservator of my estate or guardian of my person, I nominate the following person(s) for appointment:

Name of Nominated Conservator: _____

Address: _____

Telephone Number: _____

Name of Nominated Guardian: _____

Address: _____

Telephone Number: _____

RELIANCE ON THIS POWER OF ATTORNEY

Any person, including my agent, may rely upon the validity of this power of attorney or a copy of it unless that person knows it has terminated or is invalid. Unless expressly stated otherwise, this power of attorney is durable and shall remain valid if I become incapacitated.

SIGNATURE AND ACKNOWLEDGMENT

Date: _____, 20____.

Your Signature

Your Printed Name

Your Address: _____

Your Telephone Number: _____

STATE OF WEST VIRGINIA

COUNTY OF _____, To-wit:

This document was acknowledged before me this _____ day of _____, 20____
by _____ (Name of
Principal).

My commission expires _____.

Notary Public

This document prepared by:

IMPORTANT INFORMATION FOR AGENT

When you accept the authority granted under this power of attorney, a special legal relationship is created between you and the principal. This relationship imposes upon you legal duties that continue until you resign or the power of attorney is terminated or revoked.

You must:

(1) Do what you know the principal reasonably expects you to do with the principal's property or, if you do not know the principal's expectations, act in the principal's best interest; act in good faith;

(2) Do nothing beyond the authority granted in this power of attorney; and

(3) Disclose your identity as an agent whenever you act for the principal by writing or printing the name of the principal and signing your own name as "agent" in the following manner:

_____ by _____
(Principal's Name) (Your Signature) as Agent

Unless the special instructions in this power of attorney state otherwise, you must also:

(1) Act loyally for the principal's benefit;

(2) Avoid conflicts that would impair your ability to act in the principal's best interest;

(3) Act with care, competence and diligence;

(4) Keep a record of all receipts, disbursements and transactions made on behalf of the principal; and

(5) Cooperate with any person that has authority to make health-care decisions for the principal to do what you know the principal reasonably expects or, if you do not know the principal's expectations, to act in the principal's best interest; and attempt to preserve the principal's estate plan if you know the plan and preserving the plan is consistent with the principal's best interest.

You must stop acting on behalf of the principal if you learn of any event that terminates this power of attorney or your authority under this power of attorney. Events that terminate a power of attorney or your authority to act under a power of attorney include:

(1) Death of the principal;

(2) The principal's revocation of the power of attorney or your authority;

(3) The occurrence of a termination event stated in the power of attorney;

(4) The purpose of the power of attorney is fully accomplished; or

(5) If you are married to the principal, a legal action is filed with a court to end your marriage or for your legal separation, unless the Special Instructions in this power of attorney state that such an action will not terminate your authority.

The meaning of the authority granted to you is defined in the Uniform Power of Attorney Act West Virginia Code § 39B-1-1, *et seq.* If you violate the Uniform Power of Attorney Act or act outside the authority granted, you may be liable for any damages caused by your violation.

If there is anything about this document or your duties that you do not understand, you should seek legal advice.