

What Every Attorney Needs to Know About Estate Planning

Frederick J. Gawronski
Partner, Colligan Law LLP

Estate Planning Breakdown

- ▶ Intestacy
- ▶ Joint Ownership
- ▶ Contract
- ▶ Wills
- ▶ Trusts

Intestacy: A failure to plan is a plan to fail

EPTL 4-1.1: Descent and distribution of decedent's estate

(a) If a decedent is survived by:

(1) A spouse and issue, fifty thousand dollars and one-half of the residue to the spouse, and the balance thereof to the issue by representation.

(2) A spouse and no issue, the whole to the spouse.

(3) Issue and no spouse, the whole to the issue, by representation.

(4) One or both parents, and no spouse and no issue, the whole to the surviving parent or parents.

(5) Issue of parents, and no spouse, issue or parent, the whole to the issue of the parents, by representation.

(6) One or more grandparents or the issue of grandparents (as hereinafter defined), and no spouse, issue, parent or issue of parents, one-half to the surviving grandparent or grandparents of one parental side, or if neither of them survives the decedent, to their issue, by representation, and the other one-half to the surviving grandparent or grandparents of the other parental side, or if neither of them survives the decedent, to their issue, by representation; provided that if the decedent was not survived by a grandparent or grandparents on one side or by the issue of such grandparents, the whole to the surviving grandparent or grandparents on the other side, or if neither of them survives the decedent, to their issue, by representation, in the same manner as the one-half. For the purposes of this subparagraph, issue of grandparents shall not include issue more remote than grandchildren of such grandparents.

(7) Great-grandchildren of grandparents, and no spouse, issue, parent, issue of parents, grandparent, children of grandparents or grandchildren of grandparents, one-half to the great-grandchildren of the grandparents of one parental side, per capita, and the other one-half to the great-grandchildren of the grandparents of the other parental side, per capita; provided that if the decedent was not survived by great-grandchildren of grandparents on one side, the whole to the great-grandchildren of grandparents on the other side, in the same manner as the one-half.

Joint Ownership

EPTL Article 6

- ▶ Real property
 - ▶ Joint Tenancy with Right of Survivorship
 - ▶ Tenancy-in-Common
 - ▶ Tenancy by the Entirety
 - ▶ Life Estate with Remaindermen
- ▶ Vehicles and Boats
- ▶ Investment Accounts
- ▶ Bank Accounts

Distribution by Contract

- ▶ Transfer on Death Accounts (TOD)
- ▶ Life Insurance
- ▶ Retirement Accounts
- ▶ Annuities

Wills

EPTL Article 3

- ▶ Direct distribution of assets at death with Surrogate's Court supervision
- ▶ Parties: Testator, Executor, Guardian, Trustee, Beneficiaries, Alternates
- ▶ Execution of wills
 - ▶ EPTL Article 3, Part 2
 - ▶ Testator and both witnesses must be over 18
 - ▶ “of sound mind”; no undue influence

Trusts

EPTL Article 7

- ▶ During life or at death
- ▶ Parties: Trustee, Settlor/Grantor, Beneficiary
- ▶ Distributions of income and principal
- ▶ Limitations
- ▶ NYS: no self-settled trusts

Contact Information

- ▶ Frederick J. Gawronski
- ▶ fgawronski@colliganlaw.com
- ▶ 716-885-1150

APPENDIX C

Estate Planning Checklists

I. OBJECTIVES CHECKLIST

To determine client's main objectives for estate plan and the relative importance of each of these objectives.

A. Objectives for Client and Client's Spouse

1. Personal care during disability or old age
2. Managing assets during disability or old age
3. Securing advice for current management of assets
4. Minimizing current income taxes
5. Arranging for guardians for any of the client's minor children
6. Arranging for disposition or continued management of family business after disability, retirement or death
7. Changing residence to another jurisdiction—double domicile problems
8. Making gifts to family members
9. Establishing asset management for children
10. Providing financial care for client's parents
11. Insuring that family assets remain in family
12. Making gifts to charities
13. Purchasing additional life insurance
14. Purchasing insurance to supplement income in case of disability
15. Concern for health care decisions if gravely ill
16. Concern for funeral arrangements and donation of bodily organs
17. Minimizing estate and inheritance taxes and administration expenses at death

B. Objectives under Client's Will

1. Selection of executor, trustee and successor fiduciaries
2. Disposition of valued personal effects to spouse
3. Disposition of valued personal effects to children, other family members or friends

4. Authorizing spouse to make gifts to other family members during spouse's lifetime
5. Authorizing spouse to make gifts to other family members under spouse's will
6. Protecting assets left to spouse or child from present or future creditors
7. Reduction of estate taxes at client's death regardless of estate tax consequences at death of surviving spouse
8. Arranging for care of child with mental or physical handicap
9. Arranging for care of parent or other family member
10. Selection of guardian for minor children
11. Arranging for the retention of the family home for the surviving spouse and the children
12. Arranging for disposition of any professional practice assets
13. Dispositions to any charity
14. Protection from will contests

C. Objectives under Power of Attorney

1. Enable attorney-in-fact to act for the client should the client become disabled, or for any other reason
2. Enable attorney-in-fact to make tax-free gifts up to the amount of the federal annual exclusion for each intended donee
3. Allow attorney-in-fact to make unlimited tax-free gifts for medical and tuition expenses for each intended donee
4. Empower the attorney-in-fact to act concerning all tax matters for the client
5. Enable the attorney-in-fact to pay for all health care expenses for the client
6. Enable the attorney-in-fact to transfer client's assets to client's revocable trust
7. Enable the attorney-in-fact to change client's domicile

II. DOCUMENT CHECKLIST

To determine availability of relevant data

A. Information Regarding Client

1. Current will and codicil
2. Trust agreements—that client has created or under which the client may be a beneficiary
3. Powers of attorney
4. Naturalization papers

5. Pending litigation papers
6. Pre- or postnuptial agreements
7. Divorce decree or separation agreement
8. Military discharge papers
9. Adoption papers regarding client or client's family members
10. Health care proxy
11. Living will
12. Copies of most recent income tax return and state or federal estate tax return filed for a predeceased spouse.

B. Property Interests

1. Savings accounts and passbooks
2. Personal financial statements
3. Appraisals or documents evidencing ownership of fine art, jewelry, antiques, furs or other valuables
4. Promissory notes and mortgages
5. Inventory of stocks, bonds and securities
6. Safe-deposit box or private safe
7. Copyrights, trademarks and patents
8. Royalty agreements
9. Deeds to current residence and other real estate
10. Title insurance policies
11. Proprietary lease and stock certificate for cooperative apartment
12. Employee benefit statements
13. Loans and debts owed to client
14. Loans and debts owed by client
15. Custodian accounts established under New York Uniform Transfers to Minors Act*

* See EPTL 7-6.1-7-6.26.

C. Life Insurance

1. All policies owned by client or client's spouse
2. All policies owned by client or spouse insuring someone else's life
3. Premium notice regarding insurance policies
4. Summary statement of client's insurance program prepared by insurance agent

D. Other Insurance

1. Homeowner's policy
2. Tenant's policy
3. Floater or fine arts policy
4. Automobile policy
5. Health, hospitalization and major medical policies
6. Disability income insurance
7. Umbrella (excess liability) policy
8. Malpractice insurance
9. Annuity contracts
10. Fraternal benefits

E. Business Interests

1. Agreements concerning joint ventures
2. Partnership agreements
3. Shareholders' agreements
4. Stock redemption agreements
5. Life insurance incident to an agreement

F. Tax Returns

1. Copies of state and federal income tax returns for past three years
2. Copies of state and federal gift tax returns that have been filed
3. Copies of estate tax returns for those estates in which the client has received any interest

III. FACT-GATHERING CHECKLIST

Provides starting point for preparing and organizing estate plan and assists in four phases of estate planning process: (1) ascertaining facts, (2) analyzing facts, (3) formulating plan, (4) implementing plan.

A checklist also reveals problem areas not obvious to the client:

1. Insufficient life, medical, liability or disability insurance coverage
2. Need for more liquidity to meet estate tax obligations
3. Forgotten obligations created under existing agreements
4. Need for durable general power of attorney
5. Need to secure appointment for guardian and standby guardian for mentally retarded or developmentally disabled child, pursuant to SCPA article 17-A
6. Need for designation of successor custodian pursuant to EPTL 7-6.18 to obviate need for court proceeding if custodian dies before minor attains majority
7. Death of nominated fiduciaries and intended beneficiaries

A. Ascertaining Facts

1. Personal Data—Client

- a. Name
- b. Address
 - i. Home
 - ii. Business
- c. Phone
 - i. Home
 - ii. Business
- d. Social Security number
- e. Legal name, aliases, nicknames, surnames
- f. Date and place of birth
- g. Citizenship
- h. Other residences
- i. Marital status
- j. Date and place of marriage

- k. Pre- or postnuptial agreement
- l. Prior marriages
 - i. Date and place
 - ii. How terminated
 - (a) Certified copies of decrees or judgments
 - (b) Potential obligations surviving death
- m. Date of adoption, if applicable
- n. Occupation
- o. Employer
- p. If retired, former occupation and employer
- q. Military service—branch, grade, serial number
- r. Health problems, if any
- s. Location of safe-deposit box
- t. Resided with spouse in community property states?
 - i. Community property jurisdictions: Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, Washington, Wisconsin
 - ii. Potential problems—decisions in common law jurisdictions showed no consistent pattern regarding disposition of property that was community property or derived from community property
 - iii. *Uniform Disposition of Community Property Rights at Death Act, Uniform Laws Annotated, Master Edition, Volume 8A, 1-13, adopted by Colorado (1973), Hawaii (1973), Kentucky (1974), Oregon (1975), Michigan (1976), Arkansas (1981), New York (1981), North Carolina (1982), Virginia (1982), Alaska (1984), Connecticut (1985), Wyoming (1985), Montana (1989) and Florida (1992)*
 - iv. New York law—EPTL 6-6.1 to 6-6.7 codifies this act; cannot dispose of surviving spouse's share of the community property; deceased spouse's interest in community property is not subject to right of election; step-up in basis of value of all community property

2. Personal Data—Client's Spouse

3. Personal Data—Client's Children

- a. Adopted children
 - i. Formal adoption

- ii. Equitable adoption

- b. Nonmaritals

4. Family Tree of Client and Spouse

- a. Client may die residing in, or owning real estate in, jurisdiction with solemn form of probate

- b. Indicates client's natural objects of bounty and prospective fiduciaries

- c. May be required at client's death—for example, see Uniform Rules for Surrogate's Court § 207.16(c)

5. Assets and Type of Ownership

- a. Personal property

- i. Collectibles

- ii. Antiques

- iii. Works of art

- iv. Furs and jewelry

- v. Coin or stamp collection

- vi. Furnishings

- vii. Motor vehicles

- viii. Library

- ix. Pets

- x. Guns

- xi. Professional practice assets

- xii. Electronic equipment

- xiii. Computers

- b. Cash and cash equivalents

- i. Savings accounts

- ii. Checking accounts

- iii. Time deposits

- iv. "In trust for" accounts

- v. Money market accounts
- vi. Treasury bills
- vii. Credit union accounts
- viii. Cash hoards
- c. Securities
 - i. Stocks
 - ii. Tax-exempt bonds
 - iii. Corporate bonds
 - iv. Flower bonds
 - v. Custody management accounts
 - vi. Savings bonds
 - vii. Investment management accounts
 - viii. Promissory notes and mortgages
- d. Life insurance, annuities and employee benefits
 - i. Face amount of life and group insurance owned on self
 - ii. Face amount of life and group insurance owned on others
 - iii. Stock options
 - iv. Deferred compensation
 - v. Post-death salary
 - vi. Vested pension rights and profit-sharing plans
 - vii. Employee benefit plan statements, summary plan statements and employment literature to determine other benefits
 - viii. IRA
 - ix. Keogh plan
- e. Business interests
 - i. Proprietorship
 - ii. Professional practice

- iii. Closely held business interests
- iv. Tax shelters
- v. Joint ventures
- vi. Partnership interest
- vii. Royalties
- viii. Commissions
- f. Real estate
 - i. Principal residence
 - ii. Vacation residence
 - iii. Other residences
 - iv. Undeveloped property
 - v. Farmland
 - vi. Oil, gas and mineral interests

6. Liabilities

- a. Judgments
- b. Bank loans
- c. Promissory notes
- d. Accounts payable
- e. Pledges
- f. Secured loans
- g. Unsecured loans
- h. Accrued taxes

7. Advisers

- a. Physician
- b. Life insurance agent
- c. Casualty insurance broker
- d. Accountant

- e. Attorney
- f. Investment adviser
- g. Securities custodian
- h. Banker
- i. Clergyman

B. Analyzing Facts

C. Formulating Plan

1. Unlimited marital deduction—shifting ownership of assets
2. Gift giving to reduce taxable estate and reduce income generated from those assets
3. Consider splitting assets to take advantage of unified credit and generation-skipping tax exemption
4. Joint ownership of property in other jurisdictions to avoid ancillary proceedings
5. Consider purchasing additional life insurance to meet anticipated estate tax obligations
6. Use of durable power of attorney as estate-planning tool
7. Consider relevancy of health care proxy and living will
8. Determine if client has charitable intentions and discuss vehicles for making charitable dispositions, if applicable
9. Establish a revocable trust for asset management during lifetime and after death
10. Establish an irrevocable insurance trust to use as a gift-making vehicle
11. Estate planning with increasingly more emphasis on lifetime planning
12. Tailor plan to meet client's objectives

§ 6-5.12. Future rents and profits subject to rules governing future estates

Part 6. Disposition of Community Property Rights at Death

- § 6-6.1. Application
- § 6-6.2. Rebuttable presumptions
- § 6-6.3. Disposition upon death
- § 6-6.4. Perfection of title
- § 6-6.5. Purchaser for value or lender
- § 6-6.6. Effect and construction of part
- § 6-6.7. Short title

PART 1. Estates Classified as to Duration

§ 6-1.1. Estates classified

(a) Estates in property as to duration are classified as follows:

- (1) Fee simple absolute.
- (2) Fee on condition.
- (3) Fee on limitation.
- (4) Estates for life.
- (5) Estates for years.
- (6) Estates from period to period.
- (7) Estates at will.
- (8) Estates by sufferance.

History: Add, L 1966, ch 952, eff Sept 1, 1967, with substance deriving from RPL § 30-

§ 6-1.2. Estates tail abolished; future estates limited thereon

Estates tail have been abolished, and every estate which would be a fee tail, according to the law of this state as it existed before the twelfth day of July, seventeen hundred eighty-two, shall be a fee simple; and if no valid future estate is limited thereon, a fee simple absolute. Where a future estate in fee is limited on any estate which would be a fee tail, according to the law of this state as it existed previous to such date, such future estate is valid and vests in possession on the death of the first taker without issue living at the time of his death.

History: Add, L 1966, ch 952, eff Sept 1, 1967, with substance deriving from RPL § 32-

§ 6-1.3. When estate for life of third person is real property; when personal property

A disposition of real property for the life of a third person, whether limited to heirs or otherwise, is real property only during the life of the grantee or devisee; after his death it is personal property.

History: Add, L 1966, ch 952, eff Sept 1, 1967, with substance deriving from RPL § 34; amd, L 1967, ch 686, § 46, eff Sept 1, 1967.

PART 2. Estates Classified as to Number of Persons

§ 6-2.1. Estates in severalty, joint tenancy, tenancy by the entirety and in common

Estates as to the number of persons owning an interest therein are classified as follows:

- (1) In severalty.
- (2) Joint tenancy.
- (3) Tenancy in common.
- (4) Only as to real property and, on and after January first, nineteen hundred ninety-six, as to the shares of stock of a cooperative apartment corporation allocated to an apartment or unit together with the appurtenant proprietary lease, tenancy by the entirety.

History: Add, L 1966, ch 952, eff Sept 1, 1967, with substance deriving from RPL § 65; amd, L 1995, ch 480, § 1, eff Jan 1, 1996.

§ 6-2.2. When estate is in common, in joint tenancy or by the entirety

(A) A disposition of property to two or more persons creates in them a tenancy in common, unless expressly declared to be a joint tenancy.

(B) A disposition of real property to a husband and wife creates in them a tenancy by the entirety, unless expressly declared to be a joint tenancy or a tenancy in common.

(C) A disposition on or after January first, nineteen hundred ninety-six of the shares of stock of a cooperative apartment corporation allocated to an apartment or unit together with the appurtenant proprietary lease to a husband and wife creates in them a tenancy by the entirety, unless expressly declared to be a joint tenancy or a tenancy in the common*.

(D) A disposition of real property, or a disposition on or after January first, nineteen hundred ninety-six of the shares of stock of a cooperative apartment corporation allocated to an apartment or unit together with the appurtenant proprietary lease, to persons who are not legally married to one another but who are described in the disposition as husband and wife, spouses, husbands, or wives creates in them a joint tenancy, unless expressly declared to be a tenancy in common.

(E) A disposition of property to two or more persons as executors, trustees or guardians creates in them a joint tenancy.

(F) Property passing in intestacy to two or more persons is taken by them as tenants in common.

History: Add, L 1966, ch 952, eff Sept 1, 1967, with substance deriving from Decedent Est. Law § 84 and RPL § 66; amd, L 1975, ch 263, eff Sept 1, 1975; L 1995, ch 480, § 2, eff Jan 1, 1996; L 2019, ch 420, § 2, eff Oct 29, 2019.

PART 3. Estates Classified as to Time of Enjoyment and Creation

§ 6-3.1. Estates in possession and future estates

Estates in property, as to the time of their enjoyment, are classified as estates in possession and future estates.

* So in original. Should probably be "tenancy in common".



History: Add, L 1966, ch 952, eff Sept 1, 1967, with substance deriving from RPL § 35.

§ 6-3.2. Kinds of future estates

(a) Future estates are divided into:

(1) Estates left in the creator, consisting of:

(A) Reversions.

(B) Possibilities of reverter.

(C) Rights of reacquisition.

(2) Estates in favor of a person other than the creator, namely remainders, that are:

(A) Indefeasibly vested.

(B) Vested subject to open.

(C) Vested subject to complete defeasance.

(D) Subject to a condition precedent.

History: Add, L 1966, ch 952, eff Sept 1, 1967, with substance deriving from RPL § 36.

§ 6-3.3. Concerning the creation of certain future estates

(a) Subject to the provisions of article 9:

(1) An estate may be created to commence at a future time.

(2) An estate for life may be created in a term of years and a future estate limited thereon.

(3) A future estate may be limited after a term of years; provided that, if such future estate is subject to a condition precedent, the condition must occur within the period prescribed by article 9.

(4) A fee or a lesser estate may be limited on a fee, subject to a condition precedent which must occur within the period prescribed by article 9.

History: Add, L 1966, ch 952, eff Sept 1, 1967, with substance deriving from RPL § 50.

§ 6-3.4. When future estates are created

A future estate is created when the disposition creating it becomes legally effective.

History: Add, L 1966, ch 952, eff Sept 1, 1967, with substance deriving from RPL § 64.

PART 4 Estates Defined

§ 6-4.1. Definition of an estate in possession

An estate in possession is an estate which entitles the owner to the immediate possession of property.

History: Add, L 1966, ch 952, eff Sept 1, 1967, with substance deriving from RPL § 35.

§ 6-4.2. Definition of a future estate

A future estate is an estate limited to commence in possession at a future time, either without the intervention of a precedent estate or on the determination, by lapse of time or otherwise, of a precedent estate created at the same time.

History: Add, L 1966, ch 952, eff Sept 1, 1967, with substance deriving from RPL § 37; amd. L 1967, ch 686, § 47, eff Sept 1, 1967.

§ 6-4.3. Definition of a remainder

A remainder is a future estate, as defined in 6-4.2, created in favor of a person other than the creator.

History: Add, L 1966, ch 952, eff Sept 1, 1967, with substance deriving from RPL § 38.

§ 6-4.4. Definition of a reversion

A reversion is the future estate, other than a possibility of reverter and a right of reacquisition, left in the creator or in his successors in interest upon the simultaneous creation of one or more lesser estates than the creator originally owned.

History: Add, L 1966, ch 952, eff Sept 1, 1967, with substance deriving from RPL § 39.

§ 6-4.5. Definition of a possibility of reverter

A possibility of reverter is the future estate left in the creator or in his successors in interest upon the simultaneous creation of an estate that will terminate automatically within a period of time defined by the occurrence of a specified event.

History: Add, L 1966, ch 952, eff Sept 1, 1967, with substance deriving from former RPL § 59-a.

§ 6-4.6. Definition of a right of reacquisition

A right of reacquisition is the future estate left in the creator or in his successors in interest upon the simultaneous creation of an estate on a condition subsequent.

History: Add, L 1966, ch 952, eff Sept 1, 1967, with substance deriving from former RPL § 59-b.

§ 6-4.7. Definition of a future estate indefeasibly vested

A future estate indefeasibly vested is an estate created in favor of one or more ascertained persons in being which is certain when created to become an estate in possession whenever and however the preceding estates end and which can in no way be defeated or abridged.

History: Add, L 1966, ch 952, eff Sept 1, 1967, with substance deriving from RPL § 40.

§ 6-4.8. Definition of a future estate vested subject to open

A future estate vested subject to open is an estate created in favor of a class of persons, one or more of whom are ascertained and in being, which is certain when created to become an estate in possession whenever and however the preceding estates end, and is subject to diminution by reason of another person becoming entitled to share therein.

History: Add, L 1966, ch 952, eff Sept 1, 1967, with substance deriving from RPL § 40-a.

§ 6-4.9. Definition of a future estate vested subject to complete defeasance

A future estate vested subject to complete defeasance is an estate created in favor of one

EPTL

Quit Claim Deed

This Indenture, made the _____ day of _____, 2019.

Between

_____ individually, residing at _____ Grantor, and

_____ residing at _____, as equal Tenants in Common and Remaindermen, Grantees.

Witnesseth, that the Grantor in consideration of One Dollar or more (\$1.00) lawful money of the United States, paid by the Grantees, does hereby remise, release and quitclaim unto the Grantees, their heirs and assigns forever.

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Evans, County of Erie and State of New York, being part of Lot No. 82, Township 8, Range 9 of the Holland Land Company's Survey and according to map filed in Erie County Clerk's Office under Cover No. 1115 is known as subdivision lot numbers fifty-seven (57) and fifty-eight (58), situate on the southeast side of Lakeside Road.

Subject to restrictions of record.

Except the northerly five (5) feet thereof, which was heretofore deeded to the Town of Evans for highway purposes.

This conveyance is made as part of the estate plan of the Grantor, is not made in fraud of creditors, and does not render the Grantor insolvent.

The Grantor hereby reserves nonetheless a life estate and interest in the above described premises. The grant of this Deed to the above Grantees is a remainder or residuary interest subject to the following:

SPECIAL POWER OF APPOINTMENT

The Grantor hereby reserves a Special Power of Appointment, exercisable as often as Grantor may choose, to change the remaindermen to a member or members of a class consisting of any charity or religious institution having an office or place of worship in New York State, the Grantor's descendants, Grantor's spouse's descendants, spouses of the Grantor's descendants, spouses of the Grantor's spouse's descendants, the Grantor's siblings and descendants of Grantor's siblings, whether now living or hereafter born, whether individually, outright, or in trust, in such portions and amounts, without regard to equality, as Grantor may direct or appoint in Grantor's lifetime by written instrument acknowledged and recorded prior to Grantor's death, making specific reference to this Special Power of Appointment.

Notwithstanding the generality of the foregoing reservation, the Grantor has not reserved the power to and may not appoint the Grantor, the Grantor's estate, the Grantor's creditors or the creditors of the Grantor's estate.

Notwithstanding the provisions of §10-6.2 of the Estates, Powers and Trusts Law this power may not be exercised by will. Notwithstanding the provisions of §10-6.2 of the Estates, Powers and Trusts Law the recording of an instrument during the lifetime of the Grantor shall not be deemed a "formality". Grantor has not reserved the power to appoint by unrecorded instrument. An instrument recorded after Grantor's death shall be of no effect.

Grantor hereby disclaims and releases any rights given Grantor by §10-6.2 of the Estates, Powers and Trusts Law or any successor or similar statute to direct or appoint other than by instrument recorded in the lifetime of the Grantor.

Together with the appurtenances to and all the estate and rights of the Grantor in and to said premises.

To have and to hold the premises herein granted unto the Grantees, their heirs and assigns forever.

This Conveyance is subject to the trust fund provisions of Section Thirteen of the Lien Law and the Grantor covenants that he has not done or suffered anything whereby the said premises have been incumbered in any way whatever.

In Witness Whereof, the Grantor has hereunto set his hand on the date respective of the acknowledgement below.

ls

STATE OF NEW YORK)
COUNTY OF ERIE) ss.:

On the _____ day of _____, in the year 2019, before me, the undersigned, a Notary Public in and for said State, personally appeared _____ personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

Beneficiary Designation Form

BENEFORM

Use this form if you want to:

- add a primary or contingent beneficiary to your account
- change an existing primary or contingent beneficiary

If you do not complete, sign (including spouse signature, if required), and submit this form to the plan administrator, you will not have a valid beneficiary designation. If you do not have a valid *Beneficiary Designation Form* on file, the Plan document and applicable law will determine the designated beneficiary upon your death. Please refer to Beneficiary Designation Instructions on page 3 for more information about designating a beneficiary.

• Married Participants – If you want to designate a beneficiary other than your spouse, you must obtain spousal consent for that designation. If you divorce or become legally separated, please contact your Plan Administrator to determine whether the divorce or separation automatically results in removal of your former spouse, as beneficiary.

• Unmarried Participants – If you are unmarried at the time you complete this form and later marry, this form will no longer be valid because your spouse may have certain claims on your plan benefits under applicable law. At that time if you want to name someone other than your spouse as designated beneficiary, you will need to complete a new form and obtain spousal consent.

Note: If your plan's normal form of benefit is an annuity, please contact your Plan Administrator to obtain a copy of a Qualified Pre-Retirement Survivor Annuity Notice. If you are married, your spouse has survivor rights to your account that are important for you to understand before you complete this form. Refer to your plan's Summary Plan Description to determine the normal form of benefit.

Section A - Plan Information

Plan ID	Plan Name
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Section B - Participant Information

Social Security Number	Participant Name	Daytime Phone No.
Legal Address	City	State Zip Code
Marital Status: (select one) <input type="checkbox"/> Married <input type="checkbox"/> Unmarried	Date of Hire	

Section C - Primary Beneficiary

I hereby name the following as my Primary Beneficiary(ies) to receive the Plan's death benefit upon my death:

Name, address and phone no. of Primary Beneficiary(ies)	SSN or Taxpayer ID No.	Date of Birth	Relationship	Whole Percent
			<input type="checkbox"/> Spouse <input type="checkbox"/> Child <input type="checkbox"/> Trust <input type="checkbox"/> Other _____	%
			<input type="checkbox"/> Spouse <input type="checkbox"/> Child <input type="checkbox"/> Trust <input type="checkbox"/> Other _____	%
			<input type="checkbox"/> Spouse <input type="checkbox"/> Child <input type="checkbox"/> Trust <input type="checkbox"/> Other _____	%
			<input type="checkbox"/> Spouse <input type="checkbox"/> Child <input type="checkbox"/> Trust <input type="checkbox"/> Other _____	%

Note: If you intend to name a Trust or Child as a Beneficiary, please see the Instructions on page three (3) before completing this section. **Total 100%**

Section D - Contingent Beneficiary

In the event there is no living Primary Beneficiary(ies) upon my death, I hereby name the following as my Contingent Beneficiary(ies):

Name, address and phone no. of Contingent Beneficiary(ies)	SSN or Taxpayer ID No.	Date of Birth	Relationship	Whole Percent
			<input type="checkbox"/> Spouse <input type="checkbox"/> Child <input type="checkbox"/> Trust <input type="checkbox"/> Other _____	%
			<input type="checkbox"/> Spouse <input type="checkbox"/> Child <input type="checkbox"/> Trust <input type="checkbox"/> Other _____	%
			<input type="checkbox"/> Spouse <input type="checkbox"/> Child <input type="checkbox"/> Trust <input type="checkbox"/> Other _____	%
			<input type="checkbox"/> Spouse <input type="checkbox"/> Child <input type="checkbox"/> Trust <input type="checkbox"/> Other _____	%

Section E - Participant Certification and Authorization (you must sign this section)

- I, the participant, hereby instruct the Plan to distribute my death benefit to the designated beneficiary(ies) herein. I acknowledge that:
- If I am married, I must obtain spousal consent if all or a portion of my death benefit is to be paid to someone other than my spouse.
 - **If the Plan's normal form of benefit is an annuity**, I have read the Qualified Pre-Retirement Survivor Annuity Notice and provided a properly executed waiver. If not, this designation is not valid.
 - I reserve the right to revoke or change any beneficiary designation (with spousal approval, if required) by submitting a new form.
 - This form supersedes any prior beneficiary designation and, if my beneficiary designation is valid under the Plan, identifies all current Primary and Contingent beneficiary(ies).
 - I understand that if I do not provide a valid beneficiary designation, and the Plan does not provide for a default beneficiary, then my beneficiary will be my estate.

Participant's Signature

Date

Section F - Spousal Consent (complete only if the participant is married)

- I certify that I am the spouse of the participant and I hereby voluntarily consent to the participant's (i.e., my spouse) beneficiary designation herein. I acknowledge that:
- If the Plan's normal form of benefit is an annuity, I have received and read the Qualified Pre-Retirement Survivor Annuity Notice.
 - I understand the effect of such beneficiary designation is to cause my spouse's (i.e. the Participant) death benefit, or portion of it, to be paid to a beneficiary other than me.
 - Each beneficiary designation is not valid unless I consent to it.
 - My consent is irrevocable unless my spouse revokes or changes the beneficiary designation.

Participant Spouse's Signature

Date

Section G - Witness Certification and Signature (Plan Administrator or Notary completes)

I certify that the married participant's spouse personally appeared before me and acknowledged that she/he signed the Section F - Spousal Consent as her/his free act and deed.

If the plan administrator does not witness the spouse's signature, a Notary must witness it.

If witnessed by a Notary Public the Signature/Stamp must be also provided below for this form to be considered valid.

Signature of Witness (Plan Administrator or Notary Public)

If signed by a Notary Public, please complete the following:

Sworn before me this day: _____

In the State of _____, County of _____

Commission Expiration Date: _____

Notary Public stamp here:

Participants must submit this form to the Plan Administrator.

Beneficiary Designation Instructions

A beneficiary is a person, institution, charitable organization, or irrevocable or revocable trust named by you, the Plan participant, to receive payment of benefits provided under the Plan in the event of your death. You may designate more than one Primary Beneficiary who will share in the Plan's death benefit. You may also designate one or more Contingent Beneficiary(ies). A Contingent Beneficiary would receive payment only if the Primary Beneficiary(ies) you named were not able to receive payment at the time that payment was to be made.

The beneficiary designation should not include wording such as "either/or" or "and/or." Use only whole-number percentages equaling 100%. For example, designations such as 33 1/3 or 33.3 are not acceptable. If there is more than one designated beneficiary the percent payable under each category must add up to 100%. If multiple beneficiaries are named and no percentages are indicated, the beneficiaries will share equally.

Beneficiary Names: A married individual should be indicated by their full given name and not that of his/her spouse. For example: use Jane Doe and not Mrs. John Doe.

Multiple Beneficiaries: If you name more than one beneficiary in either the Primary or Contingent Beneficiary category, beneficiaries in the affected category will share equally unless you provide specific percentages.

Naming Your Estate: If you designate your estate as the beneficiary you must indicate on the beneficiary form "PAY TO THE ESTATE OF...". You should contact a tax or estate planner before designating your estate as your designated beneficiary.

Naming a Trust: If you designate a revocable or irrevocable trust as your beneficiary, please include the trust's name and address, the date the trust was created, the trustee's name and the trust's Tax Identification Number on the Beneficiary Designation Form. You may wish to provide a copy of the executed trust agreement to the Plan Administrator at the time of your designation. Please note there are special required distribution rules that apply to trusts under Treasury regulations §1.401(a)(9)-4. You should contact a tax or estate planner before designating a trust as your designated beneficiary.

Naming a Minor: If you designate a minor as your beneficiary, you must generally provide information about the appointed guardian (or custodian under the minor beneficiary's state Uniform Gift (or Transfer) to Minor Act) who will act on the behalf of the minor's property from the date of your death until the minor attains legal age. Provide the minor beneficiary's social security number. You cannot designate unborn children as beneficiaries. You should contact a tax or estate planner before designating a minor as your designated beneficiary.

No Beneficiary Designation: If you do not have a valid *Beneficiary Designation Form* on file, the Plan document will determine the designated beneficiary(ies) upon your death, and if the Plan document does not provide the beneficiary, your Plan benefit will be paid to your Estate.

If you would like to name more than four primary and four contingent beneficiaries, make a copy of page 1 and attach it to this form.

Insurance contracts are issued by Massachusetts Mutual Life Insurance Company, Springfield, MA, or Talcott Resolution Life Insurance Company, Windsor, CT (formerly named Hartford Life Insurance Company), as applicable.

Securities offered and/or distributed by GWFS Equities, Inc., Member FINRA/SIPC. GWFS is an affiliate of Empower Retirement, LLC; Great-West Funds, Inc.; and registered investment advisers, Advised Assets Group, LLC and Personal Capital.

**LAST WILL AND TESTAMENT
OF
JOHN Q. PUBLIC**

I, JOHN Q. PUBLIC, of Cheektowaga, New York, declare this to be my Will and revoke all prior Wills and Codicils.

1. Personal Information, Debts

1.1 Personal Information. I am married to JULIE Q. PUBLIC (“Julie”). We have two (2) children, JAMES Q. PUBLIC (“Jim”) and JOANN Q. PUBLIC (“Joann”). My children may be referred to in this Will either by their first name or as a “Child” or collectively as “Children”.

1.2 Debts. I direct that all my just debts and funeral expenses be paid as soon as practicable after my death.

2. Personal Property

2.1 If Julie is Living. If Julie is living at my death, I give her the rest of my Personal Property (as defined in Section “2.3”, below).

2.2 If Julie is not Living. If Julie is not living at my death, then my Personal Property shall be divided among my Children who are living at the time of my death as they shall agree. In the event they shall not agree, my Executor shall determine the division in as nearly equal shares as practicable.

(a) Any of my Personal Property which is not desired by my Children shall be

sold and the proceeds distributed as part of my Residuary Estate.

(b) Any decision, division or other action taken by my Executor pursuant to this Article shall be conclusive upon all persons interested in my estate and all others dealing with it.

2.3 Definition. As used in this Article, “Personal Property” shall mean all property that is not real estate and whose value is in its own substance or uniqueness, such as furniture, jewelry or a coin collection, but it does not include cash, documents or other papers which are only evidence of intangible property rights.

3. Residuary Estate

3.1 Definition. I dispose of the rest, residue and remainder of my property, of whatever nature and wherever situate, which I may own or have the right to dispose of at the time of my death (my “Residuary Estate”), as follows.

3.2 Disposition.

(a) If Julie is living at my death, I give my Residuary Estate to her.

(b) If Julie is not living at my death, I direct that my Residuary Estate be divided equally among my Children, per stirpes.

4. Taxes

4.1 Non-Appportionment. All transfer, estate, inheritance, succession and other death taxes (including interest and penalties on those taxes) payable by reason of my death, whether in respect of property passing under this Will or otherwise, shall be paid without apportionment from my Residuary Estate as an expense of administering my estate.

4.2 Deductions. My Executor may elect to claim any administration expenses of my

estate as an income tax deduction rather than an estate tax deduction. To the extent this is done, no compensating adjustment shall be made between income and principal.

5. Executor

5.1 Appointment.

- (a) I appoint Julie as Executrix of this Will.
- (b) If Julie fails to qualify or ceases to act, then I appoint Joann as Executrix in

her place.

5.2 Bond. No Executor acting under this Will shall have to furnish a bond or other security in order to act.

6. Fiduciary Powers

6.1 General Powers. I authorize my Executrix in carrying out her responsibilities under this Will to exercise in her sole discretion all powers conferred by law upon executors or set forth in this Will:

- (a) To retain any property of whatever nature and wherever located;
- (b) To invest and reinvest in any property without restriction to investments permitted to fiduciaries by the law of New York or any other jurisdiction;
- (c) To sell or otherwise dispose of any property for a consideration and on terms, including credit, as seems advisable;
- (d) To distribute in kind or money, or partly in each, including undivided interests, and without having to make pro rata distributions of specific assets;
- (e) To employ others and to pay for their services and expenses from assets under the fiduciary's responsibility; and
- (f) To allocate receipts and expenses between principal and income.

7. Other Provisions

7.1 Distributions.

(a) Distributions of income and principal may be applied for the benefit of the beneficiary or paid to any person who has either formal responsibility for the beneficiary, in whatever capacity he holds that responsibility, or is in fact looking after the welfare of the beneficiary.

(b) Unless otherwise specified in this Will, where property is disposed of to “Children” as a class, the Children shall take *per stirpes*.

7.2 **30-Day Survivorship.** If any beneficiary under this Will dies within 30 days after my death, its provisions shall take effect as though that beneficiary had predeceased me.

7.3 **Virtual Representation.** If a party to a proceeding concerning my estate is under a disability and there is a party to such proceeding who has the same interest as the person under a disability, then — pursuant to SCPA 315(5) — it shall not be necessary to serve the person under a disability.

7.4 **Beneficiary Under Age 21.** If a beneficiary who is not yet 21 is entitled to any part of my property under this Will, whether principal or income, I authorize my Executor to distribute that beneficiary's property either to the beneficiary, his legal guardian or to a custodian for the beneficiary under the uniform gifts to minors law of either the state in which the beneficiary or custodian resides or any other state of competent jurisdiction.

7.5 **Descriptive Titles.** The use of descriptive Article and Section titles (bold and underlined, respectively) are for purposes of convenience only and are not intended to be interpreted as part of this Will.

BEFORE WITNESSES, I, JOHN Q. PUBLIC, have signed my name to this Will on

_____, 2021.

*WE, whose names are hereto subscribed, DO CERTIFY that **JOHN Q. PUBLIC**, the Testator, subscribed his name to this instrument in our presence and in the presence of each of us, and at the same time, in our presence and hearing, declared the same to be his **LAST WILL AND TESTAMENT**, and requested us and each of us to sign our names thereto as witnesses to the execution thereof, which we hereby do in the presence of the Testator and of each other, on the day of the date of said Will, and write opposite our names our respective places of residence.*

_____ residing at _____

_____ residing at _____

1. Children's Trust

1.1 Creation. If a Child has not yet attained the age of _____ years, then his or her Share of my estate shall be held, IN TRUST, as a separate trust for such Child's benefit (a "Child's Trust") and administered as set forth in the remainder of this Article.

1.2 Income. The Trustees may pay over all or part of the net income from a Child's Trust to the Child. Any income not so used shall be accumulated and added to principal annually.

1.3 Principal.

(a) The Trustees may, in their absolute and uncontrolled discretion, pay all or part of the principal of a Child's Trust to the Child in such amounts as they deem necessary to provide for the Child's support, education, and general welfare. In exercising this discretionary power, the Trustees shall take into consideration the Child's other sources of income and/or capital resources.

(b) The Trustees shall make the following distributions upon a Child attaining the following ages:

- (1) **One-third (1/3)** of the principal balance when the Child attains the age of _____ years.
- (2) **One-half (1/2)** of the principal balance when the Child attains the age of _____ years.

(c) Any principal distributions made to a Child under subsection "(a)" shall be taken into consideration when calculating the amount (if any) due to a Child under subsection "(b)".

(d) If, upon the Survivor's death, a Child has already attained one (or both) of the ages set forth in subsection "(b)", then the Child shall receive the amount (or amounts) which

would have been paid upon his or her attaining that age.

1.4 Termination.

(a) A Child's Trust shall terminate when the Child attains the age of _____ years, at which time the remaining principal and undistributed income of the trust (the "Remainder") shall be distributed to the Child.

(b) In the event a Child dies prior to attaining the age of _____ years, then the Remainder of his or her trust shall be distributed to his or her children. If there are no children, then the Remainder shall be distributed to my surviving issue; provided, however, that if there is a Child's Trust created by this Will for the benefit of a recipient, then his or her share shall be added to the principal of that trust.

1.5 Meaning of Education. I have provided in this Will that my Trustees may distribute funds for the "education" of a Child. Without limiting my Trustees' discretion, it is my intent that education include all formal education through graduate school, whether private or public, including trade and vocational training, lessons and training in the arts, athletics or otherwise. Distributions for education may include the reasonable cost of room, board, books, and supplies.



**POWER OF ATTORNEY
NEW YORK STATUTORY SHORT FORM**

(a) CAUTION TO THE PRINCIPAL: Your Power of Attorney is an important document. As the “principal,” you give the person whom you choose (your “agent”) authority to spend your money and sell or dispose of your property during your lifetime without telling you. You do not lose your authority to act even though you have given your agent similar authority.

When your agent exercises this authority, he or she must act according to any instructions you have provided or, where there are no specific instructions, in your best interest. “Important Information for the Agent” at the end of this document describes your agent’s responsibilities.

Your agent can act on your behalf only after signing the Power of Attorney before a notary public.

You can request information from your agent at any time. If you are revoking a prior Power of Attorney, you should provide written notice of the revocation to your prior agent(s) and to any third parties who may have acted upon it, including the financial institutions where your accounts are located.

You can revoke or terminate your Power of Attorney at any time for any reason as long as you are of sound mind. If you are no longer of sound mind, a court can remove an agent for acting improperly.

Your agent cannot make health care decisions for you. You may execute a “Health Care Proxy” to do this.

The law governing Powers of Attorney is contained in the New York General Obligations Law, Article 5, Title 15. This law is available at a law library, or online through the New York State Senate or Assembly websites, www.senate.state.ny.us or www.assembly.state.ny.us.

If there is anything about this document that you do not understand, you should ask a lawyer of your own choosing to explain it to you.

(b) DESIGNATION OF AGENT(S):

I, JOHN Q. PUBLIC
(name of principal)

123 A STREET
CHEEKTOWAGA, NY 14225
(address of principal)

hereby appoint:

JULIE Q. PUBLIC
(name of agent)

123 A STREET
CHEEKTOWAGA, NY 14225
(address of agent)

(name of second agent)

(address of second agent)



as my agent(s).

If you designate more than one agent above, they must act together unless you initial the statement below.

() My agents may act SEPARATELY.

(c) **DESIGNATION OF SUCCESSOR AGENT(S): (OPTIONAL)**

If any agent designated above is unable or unwilling to serve, I appoint as my successor agent(s):

(name of successor agent)

(address of successor agent)

(name of second successor agent),

(address of second successor agent)

Successor agents designated above must act together unless you initial the statement below.

() My successor agents may act SEPARATELY.

You may provide for specific succession rules in this section. Insert specific succession provisions here:

(d) **This POWER OF ATTORNEY shall not be affected by my subsequent incapacity unless I have stated otherwise below, under “Modifications”.**

(e) **This POWER OF ATTORNEY DOES NOT REVOKE any Powers of Attorney previously executed by me unless I have stated otherwise below, under “Modifications”.**

If you do NOT intend to revoke your prior Powers of Attorney, and if you have granted the same authority in this Power of Attorney as you granted to another agent in a prior Power of Attorney, each agent can act separately unless you indicate under “Modifications” that the agents with the same authority are to act together.

(f) **GRANT OF AUTHORITY:**

To grant your agent some or all of the authority below, either

- (1) Initial the bracket at each authority you grant, or
- (2) Write or type the letters for each authority you grant on the blank line at (P), and initial the bracket at (P). If you initial (P), you do not need to initial the other lines.

I grant authority to my agent(s) with respect to the following subjects as defined in sections 5-1502A through 5-1502N of the New York General Obligations Law:

() (A) real estate transactions;

() (B) chattel and goods transactions;

() (C) bond, share, and commodity transactions;

() (D) banking transactions;

() (E) business operating transactions;



- (F) insurance transactions;
- (G) estate transactions;
- (H) claims and litigation;
- (I) personal and family maintenance: If you grant your agent this authority, it will allow the agent to make gifts that you customarily have made to individuals, including the agent, and charitable organizations. The total amount of all such gifts in any one calendar year cannot exceed five hundred dollars;
- (J) benefits from governmental programs or civil or military service;
- (K) health care billing and payment matters; records, reports, and statements;
- (L) retirement benefit transactions;
- (M) tax matters;
- (N) all other matters;
- (O) full and unqualified authority to my agent(s) to delegate any or all of the foregoing powers to any person or persons whom my agent(s) select;
- (P) EACH of the matters identified by the following letters: _____.

You need not initial the other lines if you initial line (P).

(g) MODIFICATIONS: (OPTIONAL)

In this section, you may make additional provisions, including language to limit or supplement authority granted to your agent. However, you cannot use this Modifications section to grant your agent authority to make gifts or changes to interests in your property. If you wish to grant your agent such authority, you MUST complete the Statutory Gifts Rider.

(h) CERTAIN GIFT TRANSACTIONS: STATUTORY GIFTS RIDER (OPTIONAL)

In order to authorize your agent to make gifts in excess of an annual total of \$500 for all gifts described in (I) of the grant of authority section of this document (under personal and family maintenance), you must initial the statement below and execute a Statutory Gifts Rider at the same time as this instrument. Initialing the statement below by itself does not authorize your agent to make gifts. The preparation of the Statutory Gifts Rider should be supervised by a lawyer.

(SGR) I grant my agent authority to make gifts in accordance with the terms and conditions of the Statutory Gifts Rider that supplements this Statutory Power of Attorney.

(i) DESIGNATION OF MONITOR(S): (OPTIONAL)

If you wish to appoint monitor(s), initial and fill in the section below:

I wish to designate _____, whose address(es) is (are) _____, as monitor(s). Upon the request of the monitor(s), my agent(s) must provide the monitor(s) with a copy of the power of attorney and a record of all transactions done or made on my behalf. Third parties holding records of such transactions shall provide the records to the monitor(s) upon request.

(j) COMPENSATION OF AGENT(S): (OPTIONAL)



Your agent is entitled to be reimbursed from your assets for reasonable expenses incurred on your behalf. If you ALSO wish your agent(s) to be compensated from your assets for services rendered on your behalf, initial the statement below. If you wish to define "reasonable compensation", you may do so above, under "Modifications".

(____) My agent(s) shall be entitled to reasonable compensation for services rendered.

(k) ACCEPTANCE BY THIRD PARTIES:

I agree to indemnify the third party for any claims that may arise against the third party because of reliance on this Power of Attorney. I understand that any termination of this Power of Attorney, whether the result of my revocation of the Power of Attorney or otherwise, is not effective as to a third party until the third party has actual notice or knowledge of the termination.

(l) TERMINATION:

This Power of Attorney continues until I revoke it or it is terminated by my death or other event described in section 5-1511 of the General Obligations Law.

Section 5-1511 of the General Obligations Law describes the manner in which you may revoke your Power of Attorney, and the events which terminate the Power of Attorney.

(m) SIGNATURE AND ACKNOWLEDGMENT:

In Witness Whereof I have hereunto signed my name on the ____ day of _____, 20__

PRINCIPAL signs here: =====> _____

STATE OF NEW YORK)
) ss:
COUNTY OF _____)

On the ____ day of _____, 20__, before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

(n) IMPORTANT INFORMATION FOR THE 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 on you legal responsibilities that continue until you resign or the Power of Attorney is terminated or revoked. You must:

- (1) act according to any instructions from the principal, or, where there are no instructions, in the principal's best interest;
- (2) avoid conflicts that would impair your ability to act in the principal's best interest;
- (3) keep the principal's property separate and distinct from any assets you own or control, unless otherwise permitted by law;



- (4) keep a record of all receipts, payments, and transactions conducted for the principal; and
- (5) disclose your identity as an agent whenever you act for the principal by writing or printing the principal's name and signing your own name as "agent" in either of the following manners: (Principal's Name) by (Your Signature) as Agent, or (your signature) as Agent for (Principal's Name).

You may not use the principal's assets to benefit yourself or anyone else or make gifts to yourself or anyone else unless the principal has specifically granted you that authority in this document, which is either a Statutory Gifts Rider attached to a Statutory Short Form Power of Attorney or a Non-Statutory Power of Attorney. If you have that authority, you must act according to any instructions of the principal or, where there are no such instructions, in the principal's best interest.

You may resign by giving written notice to the principal and to any co-agent, successor agent, monitor if one has been named in this document, or the principal's guardian if one has been appointed. If there is anything about this document or your responsibilities that you do not understand, you should seek legal advice.

Liability of agent: The meaning of the authority given to you is defined in New York's General Obligations Law, Article 5, Title 15. If it is found that you have violated the law or acted outside the authority granted to you in the Power of Attorney, you may be liable under the law for your violation.

(o) AGENT'S SIGNATURE AND ACKNOWLEDGMENT OF APPOINTMENT:

It is not required that the principal and the agent(s) sign at the same time, nor that multiple agents sign at the same time.

I/we, _____, have read the foregoing Power of Attorney. I am/we are the person(s) identified therein as agent(s) for the principal named therein.

I/we acknowledge my/our legal responsibilities.

Agent(s) sign(s) here: ==> _____

==> _____

STATE OF NEW YORK)

) ss:

COUNTY OF _____)

On the ____ day of _____, 20__, before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public



(p) SUCCESSOR AGENT’S SIGNATURE AND ACKNOWLEDGMENT OF APPOINTMENT:

It is not required that the principal and the SUCCESSOR agent(s), if any, sign at the same time, nor that multiple SUCCESSOR agents sign at the same time. Furthermore, successor agents can not use this power of attorney unless the agent(s) designated above is/are unable or unwilling to serve.

I/we, _____, have read the foregoing Power of Attorney. I am/we are the person(s) identified therein as SUCCESSOR agent(s) for the principal named therein.

Successor Agent(s) sign(s) here: ==> _____
==> _____

STATE OF NEW YORK)
) ss:
COUNTY OF _____)

On the ____ day of _____, 20____, before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

NOTICE: The powers granted by this document are broad and sweeping. They are authorized in Article 29-C of the Public Health Law, which expressly permits the use of any other or different form of health care proxy desired by the parties concerned.

HEALTH CARE PROXY

I, **JOHN Q. PUBLIC** do hereby appoint:

JULIE Q. PUBLIC
123 A STREET
CHEKTOWAGA, NEW YORK 14225
716-111-1111

as my health care agent to make any and all health care decisions for me, except to the extent I state otherwise.

FIRST: This health care proxy shall take effect in the event that I become unable to make my own health care decisions.

SECOND: I direct my agent to make health care decisions in accordance with my wishes and instructions as stated below or as otherwise known to him/her. I also direct my agent to abide by any limitations on her authority as stated below or as otherwise known to him/her.

NOTE: Although not necessary, and neither encouraged nor discouraged, you may wish to state instructions or wishes, and/or limit your agent's authority. Unless your agent knows your wishes about artificial nutrition and hydration, your agent will not have the authority to decide about artificial nutrition and hydration. If you choose to state instructions, wishes or limitations, please do so below.

I affirm that I do not draw a distinction between nutrition and hydration and any other kind of life-sustaining treatment; and expressly authorize my agent, in his/her unrestricted discretion, to direct that nutrition and hydration be withdrawn or withheld when my agent believes that it is in my best interest to do so.

I understand and consent to the above instructions: _____

INITIALS

THIRD: In the event that JULIE Q. PUBLIC is unable, unwilling, or unavailable to act as my health care agent, then I appoint:

JAMES Q. PUBLIC
234 B STREET
WEST SENECA, NEW YORK 14224
716-222-2222

as my health care agent in his/her place.

FOURTH: I designate my agents named herein, to be my personal representatives in compliance with Federal HIPPA Laws and regulations. I authorize all medical providers who have treated me to release my medical records of such treatment to my agents(s) designated herein. I consent to the release of all my medical records to my agents designated herein.

FIFTH: I understand that, unless I revoke it, this proxy will remain in effect indefinitely or until the date or occurrence of the condition I have stated below:

*NOTE: Complete the following only if you do **not** want this health care proxy to be in effect indefinitely.*

This proxy shall expire: **INDEFINITE — no expiration date** .

IN WITNESS WHEREOF, I have hereunto signed my name on _____, 2017.

JOHN Q. PUBLIC
123 A STREET
CHEEKTOWAGA, NEW YORK 14225

WE, whose names are hereto subscribed, declare that the person who signed this document is personally known to us and appears to be of sound mind and acting willingly and free from duress. She signed this document in our presence. None of us is the person appointed as agent (or alternate agent) by this document.

_____ residing a _____

_____ residing at _____

_____ residing at _____

LIVING WILL
of
JOHN Q. PUBLIC

To my family; my Health Care Agent(s); all physicians, hospitals and health care providers; and any Court or Judge:

After thoughtful consideration, I have decided to forego all life-sustaining treatment if:

1. I shall sustain substantial and irreversible loss of mental capacity,

AND

2. EITHER —

- (a) my attending physician is of the opinion that I am unable to eat and drink without medical assistance and it is highly unlikely that I will regain the ability to eat and drink without medical assistance;

OR

- (b) my attending physician is of the opinion that I have an incurable or irreversible condition which is likely to cause my death within a relatively short time.

I shall be conclusively presumed to have sustained substantial and irreversible loss of mental capacity upon a determination to such effect by my attending physician or when a court determines that I have sustained such loss, whichever shall first occur.

As used herein the term "an incurable or irreversible condition which is likely to cause my death within a relatively short time" is a condition which, without the administration of medical procedures which serve only to prolong the process of dying, will in my attending physician's opinion, result in my death within a relatively short time. The determination as to whether my death would occur in a relatively short time is to be made by my attending physician without considering the possibilities of extending my life with life-sustaining treatment.

I direct that this decision shall be carried into effect even if I am unable to personally reconfirm or communicate it, without seeking judicial approval or authority. Accordingly, if and when it is so determined that —

1. I have sustained substantial and irreversible loss of mental capacity

AND

2. I am unable to eat or drink without medical assistance and it is highly unlikely that I will regain the capacity to eat and drink without medical assistance **or** I have an incurable or irreversible condition which is likely to cause my death within a relatively short time,

all life-sustaining treatment (including without limitation administration of nourishment and liquids intravenously or by tubes connected to my digestive tract) shall thereupon be withheld or withdrawn forthwith, whether or not I am conscious, alert or free from pain, and no cardiopulmonary resuscitation shall thereafter be administered to me if I sustain cardiac or pulmonary arrest. In such circumstances I consent to an order not to be resuscitated, as that term is defined in Public Health Law Section 2961, and direct that such an order thereupon be placed in my medical record. I recognize that when life-sustaining treatment is withheld or withdrawn from me, I will surely die of dehydration and malnutrition within days or weeks.

I specifically request that all available medication or other measures for the maximum relief of pain and for my comfort shall be administered to me after life-sustaining treatment is withheld or withdrawn even if I am rendered unconscious and my life is shortened thereby.

I recognize that there may be many instances besides those described above in which the compassionate practice of good medicine dictates that life-sustaining treatment be withheld or withdrawn and I do not intend that this instrument be construed as an exclusive enumeration of the circumstances in which I have decided to forego life-sustaining treatment. To the contrary, it is my express direction that whenever the compassionate practice of good medicine dictates that life-sustaining treatment should not be administered, such treatment shall be withheld or withdrawn from me. I similarly direct that in the event I am able to personally communicate a decision to forego life-sustaining treatment in other circumstances than those described herein, such instructions shall be followed to the same extent as if originally included in this declaration.

This instrument and the instructions herein contained may be revoked by me at any time and in any manner. However, no physician, hospital or other health care provider who withholds or withdraws life-sustaining treatment in reliance upon this Living Will or upon my personally communicated instructions without actual knowledge that I have countermanded these instructions shall have any liability or responsibility to me, my estate or any other person for having withheld or withdrawn such treatment.

I am in full command of my faculties. I make this living will declaration in order to furnish clear and convincing proof of the strength and durability of my determination to forego life-sustaining treatment in the circumstances described above. I emphasize my firm and settled conviction that I am entitled to forego such treatment in the exercise of my right to determine the course of my medical treatment. My right to forego such treatment is paramount to any responsibility of any health care provider or the authority of any court or judge to attempt to force unwanted medical care upon me.

I direct that my family, all physicians, hospitals and other health care providers and any Court or Judge honor my decision that my life not be artificially extended by mechanical means and that if there is any doubt as to whether or not life-sustaining treatment is to be administered to me after I have sustained substantial and irreversible loss of mental capacity such doubt is to be resolved in favor of withholding or withdrawing such treatment.

Dated: _____, 2019

JOHN Q. PUBLIC