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# Legal Affairs Worksheet

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USUHS Office of General Counsel / Brigade Judge Advocate

301-295-3028

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**PRIVACY ACT STATEMENT:** AUTHORITY: United States Code, Title 10, Section 8072. **PRINCIPAL PURPOSE:** To assist paralegals/attorneys in the preparation of legal documents. **ROUTINE USES:** Incorporation in legal documents. Neither this worksheet nor copies of legal documents will ordinarily be retained. **MANDATORY OR VOLUNTARY DISCLOSURE AND EFFECT ON INDIVIDUAL OF NOT PROVIDING INFORMATION:** Disclosure is voluntary, but nondisclosure precludes preparation of the requested document(s).

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This worksheet will answer common questions concerning wills and other legal documents, prepare you to discuss your needs and desires with an attorney, and provide a convenient form to record important information. After you complete this worksheet, and if you determined to have at least one document prepared, please make an appointment to consult the Brigade Judge Advocate or an attorney in the Office of General Counsel. If you have questions about any part of this worksheet or have other concerns, bring these up during your appointment.

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## Part I - Client Information

**FULL NAME** (FIRST, MIDDLE, LAST): \_\_\_\_\_

**ADDRESS:** \_\_\_\_\_

**CITY/STATE/ZIP CODE:** \_\_\_\_\_

**EMAIL ADDRESS:** \_\_\_\_\_

**TELEPHONE:** \_\_\_\_\_ (HOME) \_\_\_\_\_ (OFFICE) \_\_\_\_\_ (CELL)

**STATUS:**  ACTIVE DUTY MILITARY  RETIRED MILITARY  FAMILY MEMBER

**DOMICILE** (STATE OF LEGAL RESIDENCE): \_\_\_\_\_

**MARRIED?** YES  NO  **SPOUSE'S NAME:** \_\_\_\_\_ **U.S. CITIZEN?** YES  NO

**PREVIOUSLY MARRIED?** YES  NO

**DO YOU OWN REAL PROPERTY?** YES  NO  **STATE?** \_\_\_\_\_ **JOINTLY?** YES  NO

**FULL NAMES OF CHILDREN** (specify age and indicate if adopted or stepchild): \_\_\_\_\_

## Part II - Will

**WHAT IS A WILL?** A will is a legal document that states your desires concerning what will happen to your property after your death. A will also contains other specific directions from you concerning who is to implement your instructions and, perhaps, who will care for any minor children you may leave behind. If you die without a valid will, the laws of your domicile or state of legal residence determine what happens to your property. Your wishes will usually not be considered.

**DO YOU WANT A WILL?** YES  NO

## DISTRIBUTION OF PROPERTY

**IS ALL OF MY PROPERTY CONTROLLED BY MY WILL WHEN I DIE?** No - proceeds of life insurance policies (including SGLI) are distributed as designated in the policy and property that you own jointly with another person passes directly to the other joint owner. Similarly, certain bank accounts which are payable on death go directly to the beneficiary. Property passed to beneficiaries in these ways avoids "probate."

**WHAT IS PROBATE?** Probate is a court procedure by which a will is proved to be valid or invalid. Probate proceedings also address the administration of your estate, taxes, the guardianship of children, etc.

**WHAT CAN I DO WITH MY PROPERTY?** You can dispose of your property any way you wish, although state law may give your spouse and/or your children a right to part of your property regardless of your desire. Many married persons leave all their property to their spouse, and, if their spouse does not outlive them, then to their children. Many families travel together, therefore, it is recommended that an alternate beneficiary be named in case you, your spouse and children die in the same event. The provisions of your will DO NOT control life insurance proceeds, including SGLI, nor any other property that passes to beneficiaries outside of probate.

**Last Name:**

**CAN I GIVE SPECIFIC THINGS TO SPECIFIC PEOPLE?** Yes, these are called specific bequests and you may make them by fully describing what you want to give and the person who is to receive it. You should be careful about specific bequests. If you dispose of the property that you describe while you are alive, or if there is any doubt about the exact property described in your will, you may be creating difficulties for your personal representative.

***ESTIMATED VALUE OF ALL OF YOUR PROPERTY:*** \$ \_\_\_\_\_

***HOW DO YOU WANT TO DISPOSE OF YOUR TANGIBLE PERSONAL PROPERTY?*** (Tangible personal property is property owned by you at the time of death {except cash} including, without limitation, personal effects, household goods, clothing, jewelry, furniture, vehicles, etc.)

- all to your spouse
- all to your children
- all to one or more alternate beneficiaries if your spouse and children pass away at the same time as you (enter name): \_\_\_\_\_
- as provided with regard to the residuary estate
- other (describe disposition and shares): \_\_\_\_\_

***DO YOU WANT ADOPTED OR STEPCHILDREN TO BE INCLUDED?*** YES NO

***ARE THERE TO BE SPECIFIC BEQUESTS?*** (description of property and person(s) to receive it):

***ARE THE BEQUESTS TO BE MADE IF YOUR SPOUSE IS STILL ALIVE?*** YES NO

***HOW DO YOU WANT TO DISPOSE OF YOUR REMAINING PROPERTY?*** (Called your residuary estate, it is the remaining property {usually cash and real estate} after the tangible personal property has been disposed of and specific bequests made.)

- to your spouse outright
- if spouse predeceases, to your children per stirpes. (Per stirpes is a method of distribution whereby the descendants of your child receive that child's share of the estate if your child has died before the estate is distributed)
- a minimum bequest to spouse (disinheriting spouse to the extent permitted by law – balance to children or other beneficiaries (enter name(s)): \_\_\_\_\_)
- to your children per stirpes [ outright or  in trust]
- all to one or more alternate beneficiaries if your spouse and children pass away at the same time as you (enter name): \_\_\_\_\_
- to one beneficiary outright
- to one beneficiary in trust
- to more than one beneficiary, in  equal or  unequal shares, either outright or in trust

***AT WHAT AGE DO YOU WANT YOUR CHILDREN TO RECEIVE THEIR INHERITANCE?***

OUTRIGHT                      18                      21                      25                      OTHER - specify age \_\_\_\_\_

### **PERSONAL REPRESENTATIVE(S)**

**WHAT IS A PERSONAL REPRESENTATIVE?** A personal representative (called executor or administrator in some jurisdictions) is a person that you name in your will to carry out your desires, as expressed in your will, and to settle your estate. Settlement includes paying, from your estate, any taxes and debts you may owe. Many married people name their spouse as their personal representative. It is highly recommended that you name a successor personal representative in case your primary personal representative dies at the same time as you or is otherwise incapacitated. Your personal representative will have an important role; choose him or her with care, and discuss the matter with him or her. Be sure that the person you name is one you trust and have confidence in.

***WHO DO YOU WANT TO APPOINT AS YOUR PERSONAL REPRESENTATIVE(S)?***

- your spouse
- your spouse and one or more successor personal representative
- your spouse and a co-personal representative
- one personal representative (other than your spouse)
- one personal representative and one or more successor personal representative

**Last Name:**

- two co-personal representatives If a co-personal representative fails to qualify -
  - the other may act alone
  - the other may appoint a new co-personal representative
  - another co-personal representative is to be designated in this Will

***NAME/RELATIONSHIP/STATE OF RESIDENCY/PHONE NUMBER OF PERSONAL REPRESENTATIVE(S):***

**TRUST(S)**

**WHAT IS A TRUST AND HOW MIGHT IT BE USED FOR THE BENEFIT OF MY CHILD(REN)?** A trust is similar to a bank account that you create for your children; the property you leave to your children automatically goes into it if you establish one. When your child reaches a certain age that you specify in your will, all the money that remains in the account is distributed to the child. If you have more than one child, each child receives his or her share of the account when he or she reaches the required age. A "separate" trust sets up an account for each of your children. A "unitary" trust creates one account that all of your children share and none of the children will receive his or her share until the youngest reaches the distribution age. You appoint a "trustee" who is legally responsible for the account to watch over the account and distribute money to your children. The trustee should be a person you have confidence in, someone who knows your children and understand their needs.

**ARE THERE ALTERNATIVES TO A TRUST?** Yes. The Uniform Gifts to Minors Act (UGMA) and the Uniform Transfers to Minors Act (UTMA) create custodianships that are generally recognized in state law and may be preferable to creating a trust in your will. If one or more of the beneficiaries in your will is a minor, the custodian you appoint establishes an UGMA/UTMA account for each minor. Like a trustee, the UGMA/UTMA custodian will be charged with administering the funds for the benefit of your children. Unlike a trustee, the custodian's duties and responsibilities are defined in state law rather than in your will.

***DO YOU WANT TO ESTABLISH A TRUST?***

YES NO

***IF THERE IS TO BE A TRUST, DO YOU WANT TO APPOINT?***

- one trustee
- one trustee and one or more successor trustee
- two co-trustees - If a co-trustee fails to qualify -
  - the other may act alone
  - the other may appoint a new co-trustee
  - another co-trustee is to be designated in this will

***NAME/RELATIONSHIP/STATE OF RESIDENCY/PHONE NUMBER OF TRUSTEE(S):***

**GUARDIAN(S)**

**WHAT IS A GUARDIAN?** A guardian is the person who will act as the parent for any of your children who are minors when you die. Normally, if your spouse survives you, he or she becomes the children's guardian if he or she is the biological or adoptive parent of the children. However, it is recommended that you name a guardian and an alternate guardian in the event that both you and your spouse die. If you or your spouse have children not born of your current marriage, you should discuss the situation in detail with an attorney to determine the most appropriate way to provide for the children.

***IN THE EVENT THAT THE OTHER PARENT OF YOUR MINOR CHILD(REN) DOES NOT SURVIVE YOU, DO YOU WISH TO APPOINT?***

- one guardian
- a guardian and one or more successor guardians
- two co-guardians
- no guardian is to be appointed in this Will
- a conservator of my child(ren)'s property (in jurisdictions where appropriate)

**Last Name:**

***NAME/RELATIONSHIP/STATE OF RESIDENCY/PHONE NUMBER OF GUARDIAN(S):***

**Part III - General Power of Attorney**

**WHAT IS A GENERAL POWER OF ATTORNEY?** A general power of attorney is a document that allows someone else to act as your legal agent. A general power of attorney has the potential for being very useful but, in certain circumstances, may be dangerous. You may, accordingly, want to limit its application to specific circumstances (making it a "Special" Power of Attorney) or a limited period of time. You are legally responsible for the acts of your agent, and therefore must exercise great care in selecting the person to be your agent.

***DO YOU WANT A GENERAL POWER OF ATTORNEY?*** YES NO

***DO YOU WANT IT TO BE DURABLE?*** (effective in event of disability/incompetence) YES NO

***NAME/RELATIONSHIP/ADDRESS/PHONE NUMBER OF AGENT:***

**Part IV - Advance Medical Directive/ Medical Power Of Attorney**

**WHAT IS AN ADVANCE MEDICAL DIRECTIVE?** An Advanced Medical Directive, also called a Living Will, sets forth your wishes about what life-prolonging treatment should be withheld or provided if you become unable to communicate those wishes. Your doctor is under a duty to honor your instructions. The following instructions often appear in advance medical directives - *discuss alternatives with your attorney:*

If I should have an incurable or irreversible condition that will cause my death within a relatively short period of time, it is my desire that my life not be prolonged by administration of life-sustaining procedures.

If my condition is terminal and I am unable to participate in decisions regarding my medical care treatment, I direct my attending physician to withhold or withdraw procedures that merely prolong the dying process and are not necessary to my comfort or to alleviate pain.

I do not want medical treatment that will keep me alive if (1)I am unconscious and there is no reasonable prospect that I will ever be conscious again (even if I am not going to die soon in my medical condition) or (2) I am near death from illness or injury with no reasonable prospect of recovery.

I do want medicine and other care to make me more comfortable and to take care of pain and suffering. I want this even if such treatment makes me die sooner.

***DO YOU WANT AN ADVANCE MEDICAL DIRECTIVE?*** YES NO

***DO YOU WANT THIS DIRECTIVE TO BE IN EFFECT IF YOU ARE PREGNANT?*** YES NO

**WHAT IS A MEDICAL POWER OF ATTORNEY?** A Medical Power of Attorney, or Durable Power of Attorney for Healthcare, is a special power of attorney. A Medical Power of Attorney allows you to appoint an agent (surrogate) to make decisions about your medical care if you are unable to do so.

***DO YOU WANT A MEDICAL POWER OF ATTORNEY?*** YES NO

- ***TO INCLUDE AUTHORITY TO DONATE ORGANS/TISSUES FOR***
- o ***TRANSPLANTS?*** YES NO
- o ***MEDICAL, EDUCATIONAL, SCIENTIFIC, AND RESEARCH PURPOSES?*** YES NO

***NAME/RELATIONSHIP/ADDRESS/PHONE NUMBER OF AGENT:***