



SUFFOLK ACADEMY OF LAW
The Educational Arm of the Suffolk County Bar Association
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Back to Basics: Wills
BASICS AND BEST PRACTICES

FACULTY

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Suffolk County Bar Association, New York

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BACK TO BASICS – Wills: Basics and Best Practices

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Randazzo & Randazzo, LLP

I. OVERVIEW OF THE WILL PREPARATION PROCESS

Initial Contact
Estate Planning Consultation
Post-Consultation Follow-up
Drafting the Will
Execution of Plan

II. INITIAL CONTACT

Inquiry by Client

Identifying the Client

Determining Client's Intent

Advising of Potential Services

Providing Checklist - See Appendix 1

Discussing Fees, consultation and otherwise (to the extent able)

Memorializing the Contact

Why Memorialize

How to Memorialize

Scheduling the Consult

Be Reasonable with Yourself

Cluster Schedule (carefully)

Confirm Contact Number

III. THE CONSULTATION

Necessity of the Consultation

To know what you are planning for/with

To explain consequences of intentions to client

To determine if plan requested is right for the client

Time Required

Schedule reasonably

Anticipate the unanticipated

Allow for time after consultation

Consultation Environment

Client's "first" impression

Clean, clutter-free and comfortable

Private

Distraction Free

Access to photocopier

Consultation and Consultation Worksheet

Advise of Preliminary Matters

Confidentiality

Parties permitted to be present

How the consultation will proceed

Discuss the purpose of the consultation

Information covered at consult/consultation checklist - See Appendix 2

Contact information for all present

Client's age/date of birth

Family tree info, including

Prior marriage(s) with details

Pre/post-nuptial agreements

Estranged relations

Disabilities of persons included

Ages, particularly of children

Non-family interested parties

Client's health, including status/source of health insurance and long term care insurance information

Resources, with details, for all –

Real property

Bank accounts
Brokerage accounts
Retirement/Qualified accounts
Other investments
Life insurance
Business interests
Valuable persona property
Outstanding loans to/from client
Debts owed by client
Income
Gifting History

Order of consultation worksheet

Completion of consultation worksheet

Opportunity for Questions

Provide opportunity along the way

Provide opportunity at the end of the consultation

Advice and Recommendations

Explain outcome at current time

Outline steps for clients to take

Outline advice and recommendations in writing

(Potentially) refer back to referral source

Advise of fees

Advise of next steps

Provide further opportunities for questions

Discussion of Fees

Be clear

Explain what is included

Advise of payment timing

IV. POST-CONSULTATION FOLLOW-UP

Follow-up from Client

Diary ahead

Be mindful of client's timeline

Anticipate questions

Follow-up with Client

When to follow-up

How to follow-up

How often

Receipt of Client Instructions

Compare with notes from consultation

Contact client if not clear or complete

Contact client if delay anticipated in preparing drafts

Drafting the Will (to follow)

Forwarding Drafts to Client

With cover letter, including

What is enclosed

Instructions for review

Fee details

Client's next step

By mail (my preference)

Diary ahead

Follow-up with clients, if necessary

V. DRAFTING THE WILL

What You Should Include [and Might Want to Include], and in What Order

Exordium Clause

[Pedigree Clause]

Expense/Tax Apportionment Provision

[Spousal Election Provision]*

[Personal Property Provision]

[Specific Monetary Provision]

[Business Interest Provision]

[Real Property Provision]

Residuary Provision

[Trust Provision(s)]*

[Crisis Clause]*

[Disinheritance/In Terrorem Clause]

Nomination of Executor

[Nomination of Trustee]*

[Nomination of Guardian for Minors]*

Powers Provision - see also EPTL 11-1.1

Anti-Alienation Provision

[Survival Provision]

[Rule Against Perpetuities Provision]*

Construction Provision

Testimonium Clause

Signature Line

Attestation Clause

Specifics Potentially Included/Addressed within Included Provisions

Charitable Dispositions

Pour Over Disposition

Bonding Issues

Accounting Issues

What to Exclude

Explanations for Distribution Plan

Burial/Cremation/Funeral Intentions

Organ Donation Intentions

VI. EXECUTING THE PLAN

Pre-Execution Considerations

1. Sufficiently-sized, comfortable, clutter-free space
2. Availability of appropriate witnesses
3. Exclusion of beneficiaries from the room
4. Confirmation of competence
5. Availability of necessary resources

Execution Basics

Requirements of Estates Powers and Trusts Law §3-2.1

Must be signed at the end by the testator [subsection (a)(1)], or in the name of the testator by another person 1) in his presence and 2) by his direction

Anything following testator's signature shall have no effect, other than attestation clause

Testator's signature must be affixed in the presence of each attesting witness (or acknowledged to the witnesses by the testator) ... can be done separately [subsection (a)(2)]

Testator must declare document to be his or her will to the witnesses [subsection (a)(3)]

Must be at least 2 witnesses to attest to testator's signature (affixed or acknowledged), and such witnesses must sign their names and affix their addresses at the end of the will at the testator's request [subsection (a)(4)]

No specific order of execution and attestation required "so long as all the requisite formalities are observed during a period of time in which, satisfactorily to the surrogate, the ceremony or ceremonies of execution and attestation continue" [subsection (b)]

Draft accordingly

Subscribing Witnesses Affidavit/Self-Proving Affidavit

1. General rule - Witnesses to a testator's will were always required to appear before and testify to the Surrogate's Court as to the circumstances surrounding execution of a will.
2. Surrogate's Court Procedures Act §1406 changed this to provide that an affidavit executed by witnesses any time after the will's execution can be accepted in lieu of Court testimony in certain situations.

There are exceptions to sufficiency of affidavit in lieu of testimony.

The Subscribing Witness Affidavit may be used as a "guide."- Appendix 3

Will Execution Ceremony

- a. Continued and uninterrupted presence of testator with all witnesses and Notary
- b. Importance of consistency
- c. Testator's comfort is important
- d. Testator initialing each page of the will in witnesses' presence
- e. Sample "ceremonial questions" –
"Can you tell me what this document is?" or "What is this document?"
"Have you read it in your entirety?"
"Has it been prepared in accordance with your instructions?"
"Does it represent your wishes?"
"Would you like the three of us to witness your signing it?"
- f. Witness comfort level
- g. Staple in witnesses' presence - prior to or immediately after testator signs

Attorney's Specific Responsibilities

1. Determination of testamentary capacity - "sound mind and memory"
2. 3-part test - Did the decedent understand:

- 1) the nature and consequences of execution of a will,
- 2) the nature and extent of his [or her] property, and
- 3) the natural objects of his [or her] bounty and the relationship to them

3. Confidence in witness' comfort with the execution

4. Consider memorandum to the file

5. Serve as the notary while supervising

VII. COMPLETING THE REPRESENTATION

Safekeeping the Will

Attorney retention

Client retention

3. Considerations of safe deposit box storage

Copying the Will

DON'T UNSTAPLE

Copy for client

Copy for file

Instructions to Client

For retention of original and copies

About distribution

About changed intentions

About when to otherwise review or modify

CLOSING LETTER

VIII. IMPORTANT DOCUMENTS TO INCLUDE WITH ESTATE PLAN

Durable Power of Attorney - Appendix 4

Health Care Proxy - Appendix 5

Living Will

HIPPA Release

Appointment of Agent for Disposition of Remains

ATTORNEY LETTERHEAD

ESTATE PLANNING CHECKLIST

Please gather the following information and/or documentation with respect to your current and future estate plan and wishes:

- _____ PERSONAL INFORMATION (address, age, marital status)
- _____ CITIZENSHIP (if not U.S., provide citizenship status and supporting proof)
- _____ FAMILY TREE DETAILS (including parents, spouse, children, grandchildren, siblings)
- _____ SPECIFIC HEALTH CONCERNS, if any
- _____ HEALTH INSURANCE, provide details (e.g., Medicare/Medigap coverage, HMO, long term care insurance duration and terms, etc.)
- _____ LIFE INSURANCE INFORMATION (**for each policy** - name of owner, name of insured, name(s) of beneficiary, death benefit and cash surrender value, if applicable)
- _____ REAL ESTATE INFORMATION (for each parcels owned, **provide copy of deed** and advise of purchase price, estimated total of all capital improvements to date, amount of outstanding outstanding mortgage, estimated current value and intentions (i.e., to retain during lifetime, sell, keep in the family, etc.)
- _____ ASSET INFORMATION (**for each individual bank, investment and other financial account, including stocks, bonds, certificates of deposit, mutual funds, etc. owned**, identify the type of asset and specific details, including the exact name of owner(s), the estimated current value, and, if applicable, named beneficiary(s))
- _____ GIFTING HISTORY (provide dates and values of all gifts for the prior five years)
- _____ PROVIDE COPY OF EXISTING WILL, for review
- _____ PROVIDE COPY OF POWER OF ATTORNEY (durable or otherwise), for review
- _____ PROVIDE COPY OF HEALTH CARE PROXY/LIVING WILL, for review
- _____ BE PREPARED TO DISCUSS ANY ANTICIPATED INCREASE IN ASSETS (e.g., pending lawsuits, potential inheritances, etc.)
- _____ MONTHLY INCOME INFORMATION, only if retired (amount of **each source** separately)
- _____ OUTSTANDING DEBT DETAILS
- _____ Be prepared to discuss any current wishes and concerns re: estate and long term care planning.

To the greatest extent you are able to provide the foregoing items and information, the more meaningful our consultation will be. Looking forward to hearing from you shortly –

ATTORNEY NAME

ATTORNEY LETTERHEAD

INITIAL CONSULTATION SHEET

APPOINTMENT DATE: _____ TIME: _____

CLIENT INFORMATION: Present? ____

NAME: _____ PHONE(S): _____
ADDRESS: _____ AGE/DOB: _____
_____ CITIZENSHIP: _____

SPOUSE'S NAME: _____ PHONE(S): _____
CITIZENSHIP: _____ AGE/DOB: _____ Present? ____

FRIEND/RELATIVE ACCOMPANYING CLIENT:

NAME: _____ PHONE: _____
ADDRESS: _____ PHONE: _____
_____ RELATION? _____

FRIEND/RELATIVE ACCOMPANYING CLIENT:

NAME: _____ PHONE: _____
ADDRESS: _____ PHONE: _____
_____ RELATION? _____

FRIEND/RELATIVE ACCOMPANYING CLIENT:

NAME: _____ PHONE: _____
ADDRESS: _____ PHONE: _____
_____ RELATION? _____

FRIEND/RELATIVE ACCOMPANYING CLIENT:

NAME: _____ PHONE: _____
ADDRESS: _____ PHONE: _____
_____ RELATION? _____

REFERRED BY: _____

PRIMARY PLANNING NEED (S): _____

FAMILY TREE:

Parents:

Siblings:

Client(s):

Children/Spouses:

Grandchildren:

Others:

STATE OF HEALTH (including assistance): _____

MEDICAL INSURANCE:

PRIMARY INSURANCE CO. NAME: _____

SOURCE OF INSURANCE (self, spouse, employer): _____

COVERAGE PROVIDED/CO-PAYS: _____

SECONDARY INSURANCE CO. NAME: _____

SOURCE OF INSURANCE (self, spouse, employer): _____

COVERAGE PROVIDED/CO-PAYS: _____

Rx: _____

LONG TERM CARE: _____

IF MEDICAID, date coverage began, county of benefits and case #:

ASSETS

LIFE INSURANCE:

POLICY 1: COMPANY: _____ TERM/WHOLE LIFE: ____
Insured = _____ Owner = _____ Beneficiary = _____
CURRENT CASH SURRENDER VALUE: _____

POLICY 2: COMPANY: _____ TERM/WHOLE LIFE: ____
Insured = _____ Owner = _____ Beneficiary = _____
CURRENT CASH SURRENDER VALUE: _____

POLICY 3: COMPANY: _____ TERM/WHOLE LIFE: ____
Insured = _____ Owner = _____ Beneficiary = _____
CURRENT CASH SURRENDER VALUE: _____

POLICY 4: COMPANY: _____ TERM/WHOLE LIFE: ____
Insured = _____ Owner = _____ Beneficiary = _____
CURRENT CASH SURRENDER VALUE: _____

TOTAL CASH VALUE OF POLICIES OWNED: \$ _____

REAL ESTATE

REAL ESTATE 1: ADDRESS: _____
NAME(S) ON DEED (provide copy): _____
TAX BASIS (purchase price + capital improvements): _____
AMOUNT OF OUTSTANDING MORTGAGE: _____
CURRENT FAIR MARKET VALUE (informal estimate): \$ _____
Current Intentions: _____

REAL ESTATE 2: ADDRESS: _____
NAME(S) ON DEED (provide copy): _____
TAX BASIS (purchase price + capital improvements): _____
AMOUNT OF OUTSTANDING MORTGAGE: _____
CURRENT FAIR MARKET VALUE (informal estimate): \$ _____
Current Intentions: _____

REAL ESTATE 3: ADDRESS: _____
NAME(S) ON DEED (provide copy): _____
TAX BASIS (purchase price + capital improvements): _____
AMOUNT OF OUTSTANDING MORTGAGE: _____
CURRENT FAIR MARKET VALUE (informal estimate): \$ _____
Current Intentions: _____

ACCOUNTS

ASSET 1:

LOCATION OF ACCOUNT:

NAME(S) ON ACCOUNT:

TYPE OF ACCOUNT:

VALUE OF ACCOUNT: \$ _____

ASSET 2:

LOCATION OF ACCOUNT:

NAME(S) ON ACCOUNT:

TYPE OF ACCOUNT:

VALUE OF ACCOUNT: \$ _____

ASSET 3:

LOCATION OF ACCOUNT:

NAME(S) ON ACCOUNT:

TYPE OF ACCOUNT:

VALUE OF ACCOUNT: \$ _____

ASSET 4:

LOCATION OF ACCOUNT:

NAME(S) ON ACCOUNT:

TYPE OF ACCOUNT:

VALUE OF ACCOUNT: \$ _____

ASSET 5:

LOCATION OF ACCOUNT:

NAME(S) ON ACCOUNT:

TYPE OF ACCOUNT:

VALUE OF ACCOUNT: \$ _____

ASSET 6:

LOCATION OF ACCOUNT:

NAME(S) ON ACCOUNT:

TYPE OF ACCOUNT:

VALUE OF ACCOUNT: \$ _____

ASSET 7:

LOCATION OF ACCOUNT:

NAME(S) ON ACCOUNT:

TYPE OF ACCOUNT:

VALUE OF ACCOUNT: \$ _____

ASSET 8:

LOCATION OF ACCOUNT:

NAME(S) ON ACCOUNT:

TYPE OF ACCOUNT:

VALUE OF ACCOUNT: \$ _____

ADDITIONAL PAGES REQUIRED? YES NO (If yes, provide same data.)

TOTAL QUALIFIED ACCOUNTS FOR _____ : \$ _____
TOTAL QUALIFIED ACCOUNTS FOR _____ : \$ _____
TOTAL INDIVIDUAL ACCOUNTS FOR _____ : \$ _____
TOTAL INDIVIDUAL ACCOUNTS FOR _____ : \$ _____
TOTAL JOINT ACCOUNTS \$ _____

TOTAL OF ALL ACCOUNTS: \$ _____

TOTAL LIFE INSURANCE FOR: _____ : \$ _____
TOTAL LIFE INSURANCE FOR: _____ : \$ _____
TOTAL REAL ESTATE FOR: _____ : \$ _____
TOTAL REAL ESTATE FOR: _____ : \$ _____

TOTAL OF ALL ASSETS: \$ _____

MONTHLY INCOME INFORMATION:

<u>CLIENT(S)</u>	<u>SOCIAL SECURITY PENSION</u>	<u>OTHER</u>	<u>OTHER</u>	<u>TOTAL</u>
_____				_____
_____				_____

OUTSTANDING DEBT

<u>CREDITOR</u>	<u>BALANCE</u>	<u>TERMS/DETAILS</u>
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PRIOR ASSET TRANSFERS/GIFTING HISTORY:

<u>DATE</u>	<u>ASSET</u>	<u>PURPOSE</u>	<u>VALUE</u>
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DOCUMENT REVIEW

_____ POWER OF ATTORNEY(S) Reviewed? _____
_____ HEALTH CARE PROXY Reviewed? _____
_____ LAST WILL & TESTAMENT Reviewed? _____
_____ LIVING WILL Reviewed? _____
_____ TRUST(S) Reviewed? _____
_____ OTHER RELEVANT DOCUMENTATION: _____

AFFIDAVIT OF WITNESSES

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Appendix 4: Statutory Durable Power of Attorney



New York State Bar Association
New York Statutory Short Form Power of Attorney, 8/18/10, Eff. 9/12/10

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, _____
(name of principal) (address of principal)

hereby appoint:

(name of agent) (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



(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

Appendix 5: Health Care Proxy Sample

HEALTH CARE PROXY

I, _____, currently residing at _____, hereby appoint _____, currently residing at _____, telephone number _____, as my health care agent to make any and all health care decisions for me, except to the extent that I state otherwise. This proxy shall take effect only when and if I become unable to make my own health care decisions.

- (2) If the person I appoint is unable, unwilling or unavailable to act as my health care agent, I hereby appoint _____, currently residing at _____, telephone number _____, as my alternate health care agent to make any and all health care decisions for me, except to the extent that I state otherwise.

Unless I revoke it or state an expiration date or circumstances under which it will expire, this proxy shall remain effect indefinitely.

Optional: I direct my proxy to make health care decisions according to my wishes and limitations, as he or she knows or as stated below. (If you want to limit your agent's authority to make health care decisions for you or to give specific instructions, you may state your wishes or limitations here.) I direct my health care agent to make health care decisions in accordance with the following limitations and/or instructions (attach additional pages as necessary): I have discussed with my agent and alternate agents my wishes concerning health care decisions, including artificial nutrition and hydration, life support equipment, and other life sustaining drugs or medication, and give my agent and alternate agents, respectively, authority to make all health care decisions, including decisions as to artificial nutrition and hydration, life support equipment and life sustaining drugs or medication, on my behalf. I specifically authorize my agent to visit me in any hospital or health care facility, and to enter into a "Medical Order for Life Sustaining Treatment" and/or "Do Not Resuscitate Order," to refuse artificial nutrition and hydration, and to authorize pain medication and comfort care on my behalf. I also give my agent the power and authority to serve as my personal representative for all purposes of the Health Insurance Portability and Accountability Act. My agent is authorized to execute any and all releases and other documents necessary in order to obtain disclosure of my patient records and other medical information subject to and protected under HIPAA.

Your Identification:

Signature _____ Date _____
Name _____
Address _____

Optional: Organ and/or Tissue Donation

I hereby make an anatomical gift, to be effective upon my death, of (check any that apply):

- ☐ Any needed organs and/or tissues
☐ The following organs and/or tissues - _____
☐ Limitations - _____

Your Signature _____ Date _____

Statement by Witnesses (Witnesses must be 18 years of age or older and cannot be the health care agent or alternate): I declare that the person who signed this document is personally known to me and appears to be of sound mind and action of his or her own free will. He or she signed this document in my presence.

Name _____	Name _____
Signature _____	Signature _____
Address _____	Address _____

ⁱ Sheryl L. Randazzo, Esq. is a partner with the law firm of Randazzo & Randazzo, LLP, with offices located in Huntington, New York and downtown Manhattan. The firm concentrates its practice on the areas of elder law and estate planning and administration, which include traditional aspects of wills and trusts, as well as long term care planning, guardianship, Medicaid/Medicare matters and other related areas of law affecting the needs and rights of elderly and disabled individuals.

Ms. Randazzo earned her law degree from Catholic University of America's Columbus School of Law in Washington D.C., and her Bachelor of Science degree in History, magna cum laude, at Northeastern University in Boston, Massachusetts.

Ms. Randazzo is a past President of the Suffolk County Bar Association (2010-2011) and has completed twelve years of service as a member of the Association's Board of Directors. During that time, she also served as a Trustee of the Suffolk County Academy of Law, the Suffolk County Pro Bono Foundation, the Suffolk County Lawyers' Assistance Foundation and the Suffolk County Charitable Foundation. Currently, Ms. Randazzo is the Chair of the Town of Huntington Board of Ethics, Co-Chair of the Suffolk County Judicial Committee on Women in the Courts and a member of the Judicial Hearing Officer Selection Advisory Committee for the Second Judicial Department, together with serving as a Troop Leader for Cadettes Troop 81 for Girl Scouts of Suffolk County and a continuing and active member of various professional and community organizations. Past positions held by Ms. Randazzo include serving as Managing Director of the Suffolk County Pro Bono Foundation, President of the Huntington Lawyers' Club, Board Member of Nassau Suffolk Law Services, two-term Co-Chair of the Suffolk County Bar Association's Elder Law Committee and as an officer and long-time Board Member for the Family Service League of Suffolk County, among others.

In addition to maintaining a private practice, Ms. Randazzo has served as an Adjunct Professor in Law Practice Management at the Touro College Jacob D. Fuchsberg Law Center.

Ms. Randazzo is a frequent lecturer to attorneys, other professionals and the public in the areas of elder law and estate planning, as well as practice management and professional ethics. You may reach Ms. Randazzo through her firm's website at randazzolaw.com or e-mail her directly at Sheryl@randazzolaw.com.



SCBA Lawyers Helping Lawyers Committee

The SCBA Lawyers Helping Lawyers Committee provides free and confidential assistance to those in the legal community who are concerned about their alcohol or drug use and/or mental health or wellbeing or that of a colleague or family member.

Assistance is available to the legal community including attorneys, members of the judiciary, law students, and family members dealing with alcohol or substance abuse disorder, other addictive disorders, anxiety, depression, vicarious trauma, age related cognitive decline and other mental health concerns that affect one's well-being and professional conduct.

**Please call the
Lawyers Helping Lawyers Helpline at (631) 697-2499
to speak with an attorney who will provide support and recommend
resources. All calls are private and confidentiality is protected under
Judiciary Law Section 499. (Lawyer Assistance Committee)**

Feel Free to Join Us at Our Weekly Recovery Meeting

*The Lawyers Helping Lawyers Committee
Recovery Meeting
Open to anyone in the legal profession who has a desire to stop
drinking or using other substances.*

*Every Wednesday at 6PM
United Methodist Church of Hauppauge
473 Townline Road, Hauppauge, NY*