Estate Planning to Preserve Family Wealth and Empower End-of-Life Dignity

Simple Wills, Powers of Attorney, and Advance Healthcare Directives

Thursday, October 8, 2026

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This activity is made possible with funding from the City of Philadelphia's Division of Housing and Community Development.

About Philadelphia VIP

Mission Statement: Philadelphia VIP leverages the powerful resources of the community to provide quality volunteer legal services and ensure access to justice for low-income Philadelphians.

Philadelphia VIP is the hub of pro bono legal services in Philadelphia. For the past forty years, we have provided legal services for low-income residents and families facing civil legal problems that threaten their basic human needs – shelter, employment, financial stability, education, and health.

VIP, through its volunteers and staff, serves more than 3,500 individuals and families yearly who could not afford attorneys and whose cases could or would not be handled by other public interest organizations. We are the agency of last resort for the majority of our clients.

Our clients are among the poorest in the City and region and their numbers are growing. To be eligible for our services, a client's income must be at or below 200% of the federal poverty guidelines. Thus, our *most financially secure* clients earn approximately $27,180, while a family of 4 lives on $55,500.

VIP serves a multi-lingual population, principally Spanish seeking, but increasingly we see clients who speak Russian, Creole (Haitians), Chinese, Vietnamese, and Cambodian, a reflection of growing and changing immigration patterns in the Greater Philadelphia area.

VIP handles any civil matter that is non-fee generating and for which there is no right to counsel. Our caseload has four priority areas:

- Maintaining family income (child support, employment/wage claims, tax issues, disability, estate planning);
- Preventing homelessness (mortgage foreclosure, landlord-tenant eviction, probate, tangled title, consumer debt, litigation defense);
- Supporting family stability (child custody, adoption/guardianship, special education and school discipline, name change); and
- Promoting community development.

The majority of VIP's cases are referred to us from our sister organizations, Community Legal Services and Philadelphia Legal Assistance; an additional number come from specialized legal services organizations throughout Philadelphia.

In stark terms, VIP is the agency of last resort for many low-income individuals and families who face critical legal problems that affect their basic needs.

Frequently Asked Volunteer Questions

Q: What happens after I accept a VIP Case?

A: After accepting a VIP case you will be sent a VIP referral form, all information included in the VIP file about the case, and the VIP representation agreement. At the same time, your client will receive a letter with your name, address and phone number, and the request that they contact you within 24 hours. At the first meeting you and the client should sign the VIP representation agreement. *The scope of representation should be filled in carefully, so that you and the client are clear about any limitations on your services.* (Contact VIP's Managing Attorney if you have any questions about the extent of your representation.) Keep the original in your file, give a copy to your client and send a copy to VIP. VIP can offer assistance through DocuSign to execute your representation agreement.

Q: What if my client does not contact me?

A: Your client may fail to follow through for several reasons. Your client may not be able to read or understand the letter, may not have received the letter, or may have other more pressing problems. If your client does not call you within a couple of days from when you receive the case-file, try to call the client. Let VIP know if you are still unable to reach the client. Under most circumstances, VIP will close the case, and another client can be referred to you.

Q: What if my client doesn't have a telephone?

A: Contacting a client who doesn't have a telephone can be a challenge. We recommend that you send your client a letter asking the client to call you a specific time on a specific date. If your client calls later when you are on another line or away from your desk, ask your assistant to suggest a time for your client to call back. After your client reaches you, ask them for the telephone number of a neighbor, relative, and/or employer where you can leave a message if necessary. Another way that you can keep in touch with a client who doesn't have a telephone is to schedule weekly telephone "appointments." (For example, the client could call you every Friday at 1:00 PM). By keeping "appointments" you will have the opportunity to communicate information to the client.

Q: What if my client does not keep our appointments?

A: Terminating representation of the client due to his/her failure to cooperate is left up to the discretion of the volunteer. Some clients are simply uncooperative, while other clients have personal problems or mental impairments that interfere with their ability to keep appointments. Address this problem with your client and make it clear that without their cooperation you'll be unable to help them. If, after the discussion, the situation continues, you should contact VIP's Managing Attorney and discuss closing the case.

Q: What if my client does not speak English?

A: If you are not fluent in the primary language of your client, VIP can arrange a volunteer to translate. Our pool of volunteers is limited, however, so we request that you first draw on your firm's resources. If your firm is unable to arrange an interpreter, please contact VIP and we will assist you. If the client speaks Spanish, VIP has Spanish-speaking staff members who can already translate many forms into Spanish. It is a good idea to ask your client for the telephone number of a friend, neighbor, or relative of the client who you can communicate with. If you plan to relay confidential information through the client's interpreter, you should discuss this with your client.

Additional steps must be taken with the Court if your client does not speak English. If a hearing is scheduled, you should contact the Court to inform the Court that your client will need an interpreter. In addition to the Court's interpreter who interprets the proceedings, you may want to have an interpreter with you at the counsel's table, so that you can communicate confidentially with your client during the proceedings.

Q: What if I am fluent in a foreign language and would like to volunteer to interpret for other volunteers?

A: VIP is always in need of volunteers with proficiency in a foreign language. We generally need interpreters who speaks Spanish, Russian, French, or Vietnamese. Whatever foreign languages you speak, please contact VIP because we may have a client who needs your help.

Q: What if there are costs associated with my representation?

A: VIP will cover certain costs only if approval is obtained from VIP before the cost is incurred. The cost encountered most often are:

- Photocopying medical records – You should first write the doctor and/or hospital and request that the fee be waived. If the doctor refuses, you should ask the client if he/she has the money to pay for the expense. If they do not, VIP may pay to obtain the records if VIP approves the cost before it is incurred.

- Filing fees – The client should qualify for *In Forma Pauperis* (IFP) status. An IFP petition must be filed with the Court. If the client's IFP petition is denied, the client must pay the filing fee unless VIP determines that the denial was unjustified. VIP has templates of IFP petitions and can explain to you the procedure for filing an IFP.

VIP determines whether or not to cover litigation expenses on a case-by-case basis. If you would like VIP to cover a cost that is not listed above, please contact VIP's Managing Attorney or Executive Director before incurring any expense.

Q: What if I determined that my case lacks merit?

A: You should not represent a client if you believe the case is not meritorious. Even if you do not represent your client, you provide a valuable service by explaining the situation to your client, advising your client of available options, and suggesting ways to avoid the problem in the future. If you are not sure of the merits of the case, call VIP and discuss the matter with the Managing Attorney or the Executive Director.

Q: What do I do if my case is finished?

A: You should write a letter or email to VIP stating the outcome of the case, estimating the number of hours you spent on the case, and indicating whether you are available to take another case. To that letter or email, attach a copy of the closing letter you sent to your client as well as a copy of your representation agreement if you have not already provided a copy to VIP.

Thank You for Volunteering!

Contents

VIP Contact Information 1

Overview 2

Power of Attorney 4

- Terminology 4
- The Fundamentals 5
- Financial Power of Attorney Template 7

Advance Healthcare Directives 14

- Terminology 14
- The Fundamentals 15
- Advance Healthcare Directive Template 17

Wills 27

- Terminology 27
- The Fundamentals 29
- Will Template 34

Estate Planning Questionnaire 41

Closing Letter Template 45

Please Contact Letter for Client who has Fallen out of Touch Template 48

Closing Letter for Client who has Fallen out of Touch Template 50

Appendix 52

VIP Contact Information

VIP strives to make pro bono service easier for volunteer attorneys by providing support throughout a VIP case. You can always contact VIP staff members with any questions or concerns. We are always here to provide guidance and advice. We also strongly encourage our volunteers to make use of our mentors for consultation on substantive or procedural legal issues. Please do not hesitate to contact VIP for referral to a mentor. The VIP staff can be reached at 1500 JFK Blvd., Suite 1850, Philadelphia, PA, 19102, (215) 523-9550, fax (215) 564-0845.

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Overview

What is Estate Planning?

- Estate planning is an arrangement for the use, conservation and transfer of property during lifetime and on death, often through the creation of documents to change what would happen under state law if the documents did not exist. These documents include a will, power of attorney, and advance healthcare directives.

- Estate Planning can involve an attorney, an accountant, an insurance agent, a trust officer, and/or a financial planner.

The Importance of Planning Now

- Prepares for significant, life-altering events and prevents future from being left up to chance, and should be reviewed and updated after any major life-events.

- Provides for lifetime needs such as children's education, retirement income, replacement of income in the event of disability, and management of property in the event of incapacity.

- Provides for the disposition of assets on death in such a way that property is maximized and left in accordance with owner's wishes and the needs of owner's family. Without estate planning, property will pass in accordance with the laws of intestacy, which may or may not be consistent with intent of the owner.

- Helps avoid intestacy, tracking down missing heirs, expenses, and more.

- Designates a guardian for minor children in the event of death.

- Prevents problems with ownership of assets, especially homes. When homes are not transferred in an orderly way after the death of the legal owner, it creates title issues that become harder to resolve as time goes by.

- Designates a person to take over affairs in the event of incapacity.

- Gives guidance for end-of-life care.

Practical Tips

- VIP has a notary on staff. Please call the office to schedule an appointment for you and your client when you are ready to execute the documents. If your client cannot travel, we can also help arrange for a volunteer travel notary.

- A notary will require the person executing the documents to present an unexpired government issued ID. If your client does not have a valid ID, please call your contact at VIP immediately.

- Counsel clients on what to do with the documents after they have been executed. Powers of attorney and advance directives should be copied and given to agents and medical providers. Wills should be kept in a safe place (but not a safety deposit box), perhaps giving copies to executors and/or beneficiaries or at least informing them of where to find the will. A sample closing letter with such information is included in this manual.

- If you need sample language for a specific situation, please reach out to VIP. Our templates are drafted for the most common situations that occur for our clients, but we have additional template language and/or can help you get the language you need for your client's situation.

- Please let VIP know if you lose contact with your client. Included in this manual is a letter you can send to the client asking them to please contact you as soon as possible, with or without a deadline. Also included is a follow-up closing letter if the client does not contact you after receiving the first letter.

Power of Attorney (POA)

Terminology

- Agent: person designated to manage the principal's affairs by a power of attorney. The agent is a fiduciary and must always act in the principal's best interest.

- Principal: person who signs the POA naming someone as his or her agent and who is, in our cases, the client.

- Financial Powers of Attorney (FPOA): documents that allows for a named agent to manage a principal's financial affairs, often beneficial for when the principal can no longer do so independently.

- General FPOAs: allow the agent to manage all aspects of a person's finances, including the ability to sell the person's home, access bank accounts, manage income, and pay bills.

- Limited FPOAs: tailored to grant specific powers to the agent, such as the ability to access a bank account or the limited power to sell real property.

- Durable FPOAs: are the legal presumption. The effect of the document continues beyond the person's physical or mental incapacity.

- Springing FPOAs: go into effect upon a stated event. The event is usually the principal's mental and/or physical disability as determined by a physician.

The Fundamentals

- The agent is a fiduciary and must use the principal's money for the principal's benefit. Agents need to be careful not to co-mingle funds and keep detailed records and an accounting of all transactions. Agents cannot make a will on the principal's behalf.

- Joint or Co- Agents must act jointly and cannot act independently. Therefore, it is usually better to name an agent and an alternate or successor agent rather than co-agents.

    - Document can be drafted to allow Joint or Co-Agents to act independently, but it can be very tricky; proceed cautiously. This is not recommended.

- The principal must sign the statutory notice on the first page.

- Principal must sign and date the power of attorney in view of two witnesses and a notary.

- The acknowledgment(s) must be signed by the agent(s). The acknowledgment does not have to be signed when the principal executes the document and does not have to be notarized. It simply needs to be signed before the agent uses the document. It is better for the acknowledgment to be signed in front of the principal to prevent fraud.

- Durable Financial Powers of Attorney take effect immediately upon execution of the principal *and* signature of the agent.

- Springing Financial Powers of Attorney (SFPOA) are not recognized in most states, and doctors are often hesitant to declare the principal incapacitated. For these reasons, SFPOA's are not recommended for VIP clients.

Practical Tips

- The Statutory Notice on the first page should not be altered.

- Discuss with client the importance of choosing a trustworthy agent. Caution against naming multiple agents.

- Alternate or successor agent highly recommended, but not required.

- All statutory powers listed in the statute are included in VIP's template. Volunteer should pick and choose which are applicable and appropriate according to the client's wishes.

- Hot powers, the eight (8) powers listed as specific grants of power on page 3 of VIP's financial power of attorney template, are the most highly litigated.

- Client and witnesses must have valid, government-issued ID, that is not expired, to present to the notary. Reach out to VIP to discuss if this is not possible.

    - Alternatives to client having valid ID:
        - Attorney can vouch for their client to the attorney, if they are willing. (VIP will not ask you to do this!)
        - If the client knows a notary personally and the notary knows client is who they say they are, they can notarize without the photo ID.

- The agent cannot use the power of attorney until they sign the acknowledgement. This can be a tool for principal who is not yet ready to give agent the powers.

    - Principal can execute the document and keep somewhere safe so agent has not yet signed and cannot yet use. BUT, agent must be aware of power of attorney's existence and location. If something happens to the principal and agent doesn't know the power of attorney exists or where it is, it serves no purpose.

NOTE: VIP has a Spanish version of the Financial Power of Attorney Template that can be provided upon request.

Financial Power of Attorney Template

NOTICE

THE PURPOSE OF THIS POWER OF ATTORNEY IS TO GIVE THE PERSON YOU DESIGNATE (YOUR "AGENT") BROAD POWERS TO HANDLE YOUR PROPERTY, WHICH MAY INCLUDE POWERS TO SELL OR OTHERWISE DISPOSE OF ANY REAL OR PERSONAL PROPERTY WITHOUT ADVANCE NOTICE TO YOU OR APPROVAL BY YOU.

THIS POWER OF ATTORNEY DOES NOT IMPOSE A DUTY ON YOUR AGENT TO EXERCISE GRANTED POWERS, BUT, WHEN POWERS ARE EXERCISED, YOUR AGENT MUST USE DUE CARE TO ACT FOR YOUR BENEFIT AND IN ACCORDANCE WITH THIS POWER OF ATTORNEY.

YOUR AGENT MAY EXERCISE THE POWERS GIVEN HERE THROUGHOUT YOUR LIFETIME, EVEN AFTER YOU BECOME INCAPACITATED, UNLESS YOU EXPRESSLY LIMIT THE DURATION OF THESE POWERS OR YOU REVOKE THESE POWERS OR A COURT ACTING ON YOUR BEHALF TERMINATES YOUR AGENT'S AUTHORITY.

YOUR AGENT MUST ACT IN ACCORDANCE WITH YOUR REASONABLE EXPECTATIONS TO THE EXTENT ACTUALLY KNOWN BY YOUR AGENT AND, OTHERWISE, IN YOUR BEST INTEREST, ACT IN GOOD FAITH AND ACT ONLY WITHIN THE SCOPE OF AUTHORITY GRANTED BY YOU IN THE POWER OF ATTORNEY.

THE LAW PERMITS YOU, IF YOU CHOOSE, TO GRANT BROAD AUTHORITY TO AN AGENT UNDER POWER OF ATTORNEY, INCLUDING THE ABILITY TO GIVE AWAY ALL OF YOUR PROPERTY WHILE YOU ARE ALIVE OR TO SUBSTANTIALLY CHANGE HOW YOUR PROPERTY IS DISTRIBUTED AT YOUR DEATH. BEFORE SIGNING THIS DOCUMENT, YOU SHOULD SEEK THE ADVICE OF AN ATTORNEY AT LAW TO MAKE SURE YOU UNDERSTAND IT.

A COURT CAN TAKE AWAY THE POWERS OF YOUR AGENT IF IT FINDS YOUR AGENT IS NOT ACTING PROPERLY.

THE POWERS AND DUTIES OF AN AGENT UNDER A POWER OF ATTORNEY ARE EXPLAINED MORE FULLY IN 20 PA.C.S. CH. 56.

IF THERE IS ANYTHING ABOUT THIS FORM THAT YOU DO NOT UNDERSTAND, YOU SHOULD ASK A LAWYER OF YOUR OWN CHOOSING TO EXPLAIN IT TO YOU.

I HAVE READ OR HAD EXPLAINED TO ME THIS NOTICE AND I UNDERSTAND ITS CONTENTS.

Dated: _____, 20__ Principal Signature _____
CLIENT NAME

FINANCIAL POWER OF ATTORNEY

I, CLIENT NAME, of Philadelphia County, Pennsylvania, being of full age, sound, and mind and under no restraint hereby make and appoint AGENT NAME to be my true and lawful Agent (hereinafter referred to as "Agent"), and hereby revoke all prior financial powers of attorney. Upon the death, resignation, or inability of AGENT NAME to serve as my Agent, the vacancy shall be filled by ALTERNATIVE AGENT NAME who shall have the same powers, rights, and discretions as I have conferred herein upon my original Agent. The term "Agent" shall mean my original or my successor Agent, as the case may be.

This power of attorney is effective immediately and is durable. This power of attorney shall not be affected by my subsequent disability or incapacity or by the lapse of time.

I give my Agent a general grant of authority as defined by 20 Pa. C.S. § 5602(a) subject to the exclusion of any and all medical powers if I have valid health care power of attorney in effect.

My Agent may act for me with full power and authority to do and perform any and every act I might perform, including but not limited to the following:

1. To engage in banking and financial transactions; to draw checks against and make withdrawals from and deposits to my bank accounts; to open or close a bank account on my behalf; and to accept and endorse any notes, checks, or other monetary instruments.
2. To demand, receive, and give discharge to all money, securities, inheritances, or other assets, and to receive any pension, annuity distributions, or insurance hereafter due to me from any source.
3. To receive government benefits, including serving as my representative payee for any and all public benefits.
4. To pay any and all bills, accounts and debts that may be due by me at any time, or to compromise or settle any of them on any terms.
5. To engage in real property transactions, and to execute and deliver all deeds, agreements, receipts, releases, and satisfactions necessary or desirable in connection therewith.
6. To engage in tangible personal property transactions.
7. To manage my digital assets, including emails, email accounts, digital music, digital photographs, digital videos, gaming accounts, software licenses, social-network accounts, file-sharing accounts, financial accounts, domain registrations, Domain Name System (DNS) service accounts, blogs, listservs, web-hosting accounts, tax-preparation service accounts, online stores and auction sites, online accounts, and any similar digital asset that currently exists or may be developed as technology advances.
8. To claim an elective share of the estate of my deceased spouse.
9. To enter safe deposit boxes or to open a safe deposit box on my behalf.
10. To create a trust, or make additions to an existing trust, for my benefit.
11. To engage in stock, bond, and other security transactions.

12. To handle interests in estates and trusts.
13. To renounce fiduciary responsibilities I may hold.
14. To engage in insurance and annuity transactions*[, but not to alter any existing beneficiary designations – edit based on decision re #4 below]*.
15. To engage in retirement and long-term care planning transactions*[, but not to alter any existing beneficiary designations – edit based on decision re #4 below]*.
16. To commence and prosecute or defend and/or settle or compromise any claims, suits, actions, or proceedings at law or in equity, not instituted or to be instituted, which my said Agent may deem advisable and to appear and plead for me before courts and/or tribunals having jurisdiction thereof.
17. To appear and plead for me before any Federal, State, or municipal agency, authority, tribunal, or office, in any matter related to me; to examine all records and receive all communications agreements and agreements of settlement or compromise, receive all checks for refunds of money, and to do all things which with reference thereto.
18. To pursue tax matters, including executing income tax returns, waivers, and claims for refund, as I might personally do in all matters pertaining to Federal, State, and municipal tax returns.
19. To engage in commodity and option transactions.
20. To borrow money.
21. To pursue claims and litigation.
22. To operate a business or entity.
23. To provide for personal and family maintenance.

I give my Agent the specific grants of power:

1. Create, amend, revoke or terminate an inter vivos trust other than as permitted under section 5602(a)(2), (3) and (7) (relating to form of power of attorney).
2. Make a gift.
3. Create or change rights of survivorship.
4. Create or change a beneficiary designation.
5. Delegate authority granted under the power of attorney.
6. Waive the principal's right to be a beneficiary of a joint and survivor annuity, including a survivor benefit under a retirement plan.
7. Exercise fiduciary powers that the principal has authority to delegate.
8. Disclaim property, including a power of appointment.

I hereby ratify and confirm all that my said Agent shall do or cause to be done by virtue of these presents. I specifically direct that my Agent shall not be subject to any liability by reason of any good faith decisions, acts or failures to act, all of which shall be conclusive and binding upon me, my estate, and my heirs. Furthermore, I agree to indemnify my Agent, and hold my Agent harmless, from all claims that may be made against my Agent as a result of good faith service as my Agent, and I agree to reimburse my Agent in the amount of any damages, costs, and expenses that may be incurred as a result of any claim.

[THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, and intending to be legally bound, I __CLIENT NAME_____ (Principal), hereunto subscribe my name and acknowledge this instrument to be my Financial Power of Attorney, on this __ day of _____, in the year 20__.

_____(SEAL)
CLIENT NAME, PRINCIPAL

The above-mentioned person, on the above date in our presence, signed this and declared this instrument to be that person's power of attorney which now at that person's request, in that person's presence, and in the presence of each other, we sign as witnesses. Each of the undersigned is eighteen (18) years of age or older and is not (a) an individual who signed this power of attorney on behalf of the principal, (b) named as Agent in this power of attorney, or (c) the notary or other person authorized to take acknowledgments before whom this power of attorney was acknowledged.

_____ _____
WITNESS WITNESS

COMMONWEALTH OF PENNSYLVANIA :
COUNTY OF PHILADELPHIA :

This record was acknowledged before me
on this _____ day of _____,
20____ by _____(Principal),
_____ (Witness), and _____(Witness).

_____
NOTARY PUBLIC

ACKNOWLEDGEMENT

I, AGENT NAME, have read the attached power of attorney and I am the person identified as the Agent for the principal. I hereby acknowledge that when I act as Agent:

I shall act in accordance with the principal's reasonable expectations to the extent actually known by me and, otherwise, in the principal's best interest, act in good faith and act only within the scope of authority granted to me by the principal in the power of attorney.

I shall exercise the powers for the benefit of the principal.

I shall keep the assets of the principal separate from my assets.

I shall exercise reasonable caution and prudence.

I shall keep a full and accurate record of all actions, receipts and disbursements on behalf of the principal.

Dated: _____, 20___

_____
AGENT NAME, AGENT

ACKNOWLEDGEMENT

I, ALTERNATE AGENT NAME, have read the attached power of attorney and I am the person identified as the Agent for the principal. I hereby acknowledge that when I act as Agent:

I shall act in accordance with the principal's reasonable expectations to the extent actually known by me and, otherwise, in the principal's best interest, act in good faith and act only within the scope of authority granted to me by the principal in the power of attorney.

I shall exercise the powers for the benefit of the principal.

I shall keep the assets of the principal separate from my assets.

I shall exercise reasonable caution and prudence.

I shall keep a full and accurate record of all actions, receipts and disbursements on behalf of the principal.

Dated: _____, 20____

_____

ALTERNATE AGENT NAME, ALTERNATE AGENT

Advance Healthcare Directives

Terminology

- Advance Healthcare Directive: the umbrella term for healthcare directives, including both healthcare powers of attorney and living wills.

- Healthcare Power of Attorney (HCPOA): document that allows for a named agent to manage a principal's health-related affairs when he or she can no longer do so independently.

- Living Will: a "checklist" or statement of treatment preferences to be followed when a person has an end-stage/terminal medical condition or is permanently unconscious with no hope of recovery.

- End-Stage Medical Condition: an incurable and irreversible medical condition that will in "the opinion of the attending physician to a reasonable degree of medical certainty, result in death, despite the introduction or continuation of medical treatment. This encompasses chronic, progressive, fatal illnesses of unknown duration. Only one physician is needed to certify end-stage.

- Agent: under a HCPOA, the person who is designated to make healthcare decisions when the medical team cannot communicate directly with the principal. The agent is a fiduciary and must always act in the principal's best interest.

- Principal: person who signs the advance directive naming someone as his or her agent and who is, in our cases, the client.

The Fundamentals

- The HCPOA agent makes healthcare decision when a person can no longer make decisions.

- Doctors and other medical professionals are legally required to first communicate with the patient. If patient lacks capacity or cannot communicate with doctor, then they will look to the HCPOA agent or the living will as needed.

- The HCPOA agent should be trustworthy and should be aware of the client's preferences, belief, and values.

- Joint or Co- Agents must act jointly and cannot act independently. Therefore, it is usually better to name an agent and an alternate or successor agent rather than co-agents.

    - Document can be drafted to allow Joint or Co-Agents to act independently, but it can be very tricky; proceed cautiously. This is not recommended.

- Decisions may include: treatment decisions, hiring and firing medical personnel, and/or admission to a nursing facility.

- Much of the content of these documents are specified by statute, 20 Pa. C. S. § 5421, et seq., and then the client can choose which selections to make based on the options provided by statute.

- Principal must sign and date in view of two witnesses. This applies for the combined HCPOA and living will, as well as the individual HCPOA and living will, if separated.

- The living will gives instructions when the client has no capacity, cannot communicate with the doctor, and has no hope of recovery as determined by a doctor.

- Physician certification of the principal's medical condition as end-stage is <u>not</u> intended to prevent treatment if the patient would benefit from treatment, including palliative care, and/or the treatment will no merely prolong the process of dying.

- The living will gives comfort to family members who would otherwise be called on to make these decisions. It relieves the burden.

- VIP's template, which combines the Healthcare Power of Attorney and Living Will, can be separated if client wants one document, but not the other.

Practical Tips

- Discuss with client the importance of choosing a trustworthy HCPOA agent. Caution against naming multiple agents.

- Review all powers listed in HCPOA template with the client. Strike out any power client does not want their agent to have. Client should initial after each strike.

    - Any powers client does not want their agent to have can also be deleted.

- Discuss client's preferences for end-of-life care. Determine whether a "checklist" or a statement format is appropriate.

- Review the living will very carefully with client.

- Some religious organizations have their own living will template; the client may want to include some of that language in their living will.

- Agent will need original HCPOA to use.

- Discuss with client the importance of sharing values and decisions with their loved ones. Copies of the documents should be provided to loved ones and healthcare providers.

- Client and witnesses are not required to sign in front of a notary, but highly recommended. All VIP clients should be signing in front of a notary, in addition to the two witnesses.

    - Client and witnesses must have valid, government-issued ID, that is not expired, to present to the notary. Reach out to VIP to discuss if this is not possible.

        - Alternatives to client having valid ID:
            - Attorney can vouch for their client to the attorney, if they are willing. (VIP will not ask you to do this!)
            - If the client knows a notary personally and the notary knows client is who they say they are, they can notarize without the photo ID.

NOTE: VIP has a Spanish version of the Advance Directive Template that can be provided upon request.

Advance Healthcare Directive Template

(Combination of Healthcare Power of Attorney and Living Will)

DURABLE HEALTHCARE POWER OF ATTORNEY
AND HEALTHCARE TREATMENT INSTRUCTIONS
(LIVING WILL) FOR CLIENT NAME

PART I
INTRODUCTORY REMARKS ON HEALTHCARE DECISION MAKING
Note: this section can be deleted in the final document.

You have the right to decide the type of healthcare you want.

Should you become unable to understand, make or communicate decisions about medical care, your wishes for medical treatment are most likely to be followed if you express those wishes in advance by:

(1) naming a healthcare agent to decide treatment for you; and
(2) giving healthcare treatment instructions to your healthcare agent or healthcare provider.

An advance healthcare directive is a written set of instructions expressing your wishes for medical treatment. It may contain a healthcare power of attorney, where you name a person called a "healthcare agent" to decide treatment for you, and a living will, where you tell your healthcare agent and healthcare providers your choices regarding the initiation, continuation, withholding or withdrawal of life-sustaining treatment and other specific directions.

You may limit your healthcare agent's involvement in deciding your medical treatment so that your healthcare agent will speak for you only when you are unable to speak for yourself or you may give your healthcare agent the power to speak for you immediately. This combined form gives your healthcare agent the power to speak for you only when you are unable to speak for yourself. A living will cannot be followed unless your attending physician determines that you lack the ability to understand, make or communicate healthcare decisions for yourself and you are either permanently unconscious or you have an end-stage medical condition, which is a condition that will result in death despite the introduction or continuation of medical treatment. You, and not your healthcare agent, remain responsible for the cost of your medical care.

If you do not write down your wishes about your healthcare in advance, and if later you become unable to understand, make or communicate these decisions, those wishes may not be honored because they may remain unknown to others.

A healthcare provider who refuses to honor your wishes about healthcare must tell you of its refusal and help to transfer you to a healthcare provider who will honor your wishes.

You should give a copy of your advance healthcare directive (a living will, healthcare power of attorney or a document containing both) to your healthcare agent, your physicians, family members and others whom you expect would likely attend to your needs if you

become unable to understand, make or communicate decisions about medical care. If your healthcare wishes change, tell your physician and write a new advance healthcare directive to replace your old one. It is important in selecting a healthcare agent that you choose a person you trust who is likely to be available in a medical situation where you cannot make decisions for yourself. You should inform that person that you have appointed him or her as your healthcare agent and discuss your beliefs and values with him or her so that your healthcare agent will understand your healthcare objectives, including whether you want to limit or withhold life-sustaining measures in the event that you become permanently unconscious or have an end-stage medical condition. You should also tell your healthcare agent whether you want to donate organs, tissue, eyes or other parts of the body and whether you want to make a donation of your hands, facial tissue or limbs. It is important to understand that if you decide to donate a hand, limb or facial tissue it may impact funeral arrangements and that an open casket may not be possible.

You may wish to consult with knowledgeable, trusted individuals such as family members, your physician or clergy when considering an expression of your values and healthcare wishes. You are free to create your own advance healthcare directive to convey your wishes regarding medical treatment. The following form is an example of an advance healthcare directive that combines a healthcare power of attorney with a living will.

If you are a woman and diagnosed as being pregnant at the time a healthcare decision would otherwise be made pursuant to this form, the laws of this Commonwealth prohibit implementation of that decision if it directs that life-sustaining treatment, including nutrition and hydration, be withheld or withdrawn from you, unless your attending physician and an obstetrician who have examined you certify in your medical record that the life-sustaining treatment:

(1) will not maintain you in such a way as to permit the continuing development and live birth of the unborn child;
(2) will be physically harmful to you; or
(3) will cause pain to you that cannot be alleviated by medication.

A physician is not required to perform a pregnancy test on you unless the physician has reason to believe that you may be pregnant.

Pennsylvania law protects your healthcare agent and healthcare providers from any legal liability for following in good faith your wishes as expressed in the form or by your healthcare agent's direction. It does not otherwise change professional standards or excuse negligence in the way your wishes are carried out. If you have any questions about the law, consult an attorney for guidance.

NOTICE ABOUT ANATOMICAL DONATION

This document may also contain directions regarding whether you wish to donate an organ, tissue or eyes. Under Pennsylvania law, donating a part of the body for transplantation or research is a voluntary act. You do not have to donate an organ, tissue,

eye or other part of the body. However, it is important that you make your wishes about anatomical donation known, just as it is important to make your choices about end-of-life care known.

Surgeons have made great strides in the field of organ donation and can now transplant hands, facial tissue and limbs. A hand, facial tissue and a limb are examples of what is known as a vascularized composite allograft. Under Pennsylvania law, explicit and specific consent to donate hands, facial tissue, limbs or other vascularized composite allografts must be given. You may use this document to make clear your wish to donate or not to donate hands, facial tissue or limbs.

Under Pennsylvania law, the organ donor designation on the driver's license authorizes the individual to donate what we traditionally think of as organs (heart, lung, liver, kidney) and tissue and does not authorize the individual to donate hands, facial tissue, limbs or other vascularized composite allografts.

Detailed information about anatomical donation, including the procedure used to recover organs, tissues and eyes, can be found on the Department of Transportation's website. Information about the donation of hands, facial tissue and limbs can also be found on the Department of Transportation's website.

You may wish to consult with your physician or your attorney to determine whether the procedure for making an anatomical donation is compatible with fulfilling your specific choices for end-of-life care. In addition, you may want to consult with clergy regarding whether you want to donate an organ, a hand, facial tissue or limb or other part of the body. It is important to understand that donating a hand, limb or facial tissue may have an impact on funeral arrangements and that an open casket may not be possible.

PART II
DURABLE HEALTHCARE POWER OF ATTORNEY

I, CLIENT NAME, of Philadelphia County, Pennsylvania, being of full age, sound mind and under no restraint appoint the person named below to be my healthcare agent to make health and personal care decisions for me, and hereby revoke all prior healthcare powers of attorney.

Effective immediately and continuously until my death or revocation by a writing signed by me or someone authorized to make healthcare treatment decisions for me, I authorize all healthcare providers or other covered entities to disclose to my healthcare agent, upon my agent's request, any information, oral or written, regarding my physical or mental health, including, but not limited to, medical and hospital records and what is otherwise private, privileged, protected or personal health information, such as health information as defined and described in the Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191, 110 Stat. 1936), the regulations promulgated thereunder and any other State or local laws and rules. Information disclosed by a healthcare provider or other covered entity may be redisclosed and may no longer be subject to the privacy rules provided by 45 C.F.R. Pt. 164.

The remainder of this document will take effect when and only when I lack the ability to understand, make or communicate a choice regarding a health or personal care decision as verified by my attending physician. My healthcare agent may not delegate the authority to make decisions.

MY HEALTHCARE AGENT HAS ALL OF THE FOLLOWING POWERS SUBJECT TO THE HEALTHCARE TREATMENT INSTRUCTIONS THAT FOLLOW IN PART III:
Note: cross out and have client initial, or delete all together, any powers the client does NOT want to give their healthcare agent

1. To authorize, withhold or withdraw medical care and surgical procedures.

2. To authorize, withhold or withdraw nutrition (food) or hydration (water) medically supplied by tube through my nose, stomach, intestines, arteries or veins.

3. To authorize my admission to or discharge from a medical, nursing, residential or similar facility and to make agreements for my care and health insurance for my care, including hospice and/or palliative care.

4. To have full access to my medical and hospital records and all information regarding my physical or mental health.

5. To hire and fire medical, social service and other support personnel responsible for my care.

6. To take any legal action necessary to do what I have directed.

7. To request that a physician responsible for my care issue a do-not-resuscitate (DNR) order, including an out-of-hospital DNR order, and sign any required documents and consents.

8. To authorize or refuse to authorize donation of what we traditionally think of as organs (for example, heart, lung, liver, kidney), tissue, eyes or other parts of the body.

9. To authorize or refuse to authorize donation of hands, facial tissue, limbs or other vascularized composite allografts.

APPOINTMENT OF HEALTHCARE AGENT

I appoint the following healthcare agent:

Healthcare Agent Name: _____

Relationship to Principal: _____

Address: _____

_____

Telephone Number: Home _____ Work _____

E-mail: _____

If my healthcare agent is not readily available or if my healthcare agent is my spouse and an action for divorce is filed by either of us after the date of this document, I appoint the person or persons named below in the order named. (It is helpful, but not required, to name alternative healthcare agents.)

First Alternative Healthcare Agent:

Healthcare Agent Name: _____

Relationship to Principal: _____

Address: _____

_____

Telephone Number: Home _____ Work _____

E-mail: _____

Second Alternative Healthcare Agent:

Healthcare Agent Name: _____

Relationship to Principal: _____

Address: _____

_____

Telephone Number: Home _____ Work _____

E-mail: _____

GENERAL GUIDANCE FOR HEALTHCARE AGENT

If I have an end-stage medical condition or other extreme irreversible medical condition, my goals in making medical decisions are as follows: _____

_____

_____

_____

Note: client should list their personal priorities for care such as comfort, care, preservation of mental function, etc.

SEVERE BRAIN DAMAGE OR BRAIN DISEASE

If I should suffer from severe and irreversible brain damage or brain disease with no realistic hope of significant recovery, I would consider such a condition intolerable and the application of aggressive medical care to be burdensome. I therefore request that my healthcare agent respond to any intervening (other and separate) life-threatening conditions in the same manner as directed for an end-stage medical condition or state of permanent unconsciousness as I have indicated below.

Int. _____ I AGREE

Int. _____ I DISAGREE

PART III
HEALTHCARE TREATMENT INSTRUCTIONS IN THE EVENT OF END-STAGE MEDICAL CONDITION OR PERMANENT UNCONSCIOUSNESS
(LIVING WILL)

The following healthcare treatment instructions exercise my right to make my own healthcare decisions. These instructions are intended to provide clear and convincing evidence of my wishes to be followed when I lack the capacity to understand, make or communicate my treatment decisions:

IF I HAVE AN END-STAGE MEDICAL CONDITION (WHICH WILL RESULT IN MY DEATH, DESPITE THE INTRODUCTION OR CONTINUATION OF MEDICAL TREATMENT) OR AM PERMANENTLY UNCONSCIOUS SUCH AS AN IRREVERSIBLE COMA OR AN IRREVERSIBLE VEGETATIVE STATE AND THERE IS NO REALISTIC HOPE OF SIGNIFICANT RECOVERY, ALL OF THE FOLLOWING APPLY:
Note: cross out and have client initial, or delete all together, any treatment instructions with which the client does not agree

1. I direct that I be given healthcare treatment to relieve pain or provide comfort even if such treatment might shorten my life, suppress my appetite or my breathing, or be habit forming.

2. I direct that all life prolonging procedures be withheld or withdrawn.

3. I specifically do not want any of the following as life prolonging procedures:

heart-lung resuscitation (CPR)
mechanical ventilator (breathing machine)
dialysis (kidney machine)
surgery
chemotherapy
radiation treatment
antibiotics
other: _____

4. If I have authorized donation of an organ (such as a heart, liver or lung) or a vascularized composite allograft in the next section of this document, I authorize the use of artificial support, including a ventilator, for a limited period of time after I am declared dead to facilitate the donation.

5. I specifically do not want to be on artificial support after I am declared dead, even for the purpose of organ donation.

TUBE FEEDINGS

Note: Client should indicate whether they want nutrition or hydration medically supplied by a tube into their nose, stomach, intestine, arteries, or veins if they have an end-stage medical condition or are permanently unconscious and there is no realistic hope of significant recovery

Note: Client should initial only one statement

_____ I want tube feedings to be given.

_____ I do NOT want tube feedings to be given.

ORGAN DONATION

Note: Client should initial only one statement

_____ I consent to making an anatomical gift. This gift does not include hands, facial tissue, limbs or other vascularized composite allografts. I understand that if I want to donate a hand, facial tissue, limb or other vascularized composite allograft, there is another place in this document for me to do so. I also understand the hospital may provide artificial support, which may include a ventilator, after I am declared dead in order to facilitate donation. I consent to making a gift of the following parts of my body for transplantation or research. (Insert any limitations you desire on donation of specific organs or tissues or uses for donation of organs and tissues.)

_____ I consent to making a gift of my hands, facial tissue, limbs or other vascularized composite allografts. I also understand that I have the option of requesting reconstruction of my body in preparation for burial and that anonymity of identity may not be able to be protected in the case of donation of hands, facial tissue or limbs. I also understand that burial arrangements may be affected and that an open casket may not be possible. I also understand that the hospital may provide artificial support, which may include a ventilator, after I am declared dead in order to facilitate donation.

_____ I do not consent to donating my organs, tissues or any other part of my body, including hands, facial tissue, limbs or other vascularized composite allografts. This provision serves as a refusal to donate any part of my body. This provision also serves as a revocation of any prior decision I have made to donate organs, tissues or other parts of my body, including hands, facial tissue, limbs or other vascularized composite allograft made in a prior document, including a driver's license, will, power of attorney, health care power of attorney or other document.

Note: it should be noted here if client would like to impose any limitations on the donation of specific organs or tissues, or would like to request reconstructive surgery before burial

HEALTHCARE AGENT'S USE OF INSTRUCTIONS

Note: Client should initial only one statement

_____ My healthcare agent MUST follow these instructions

_____ These instructions are only guidance. My healthcare agent shall have final say and may override any of my instructions except in the following circumstances:_____
_____
_____

If I did not appoint a healthcare agent, these instructions shall be followed as indicated.

LEGAL PROTECTION

Pennsylvania law protects my healthcare agent and healthcare providers from any legal liability for their good faith actions in following my wishes as expressed in this form or in complying with my healthcare agent's direction. On behalf of myself, my executors and heirs, I further hold my healthcare agent and my healthcare providers harmless and indemnify them against any claim for their good faith actions in recognizing my healthcare agent's authority or in following my treatment instructions.

SIGNATURE

Having carefully read this document, I have signed it this this ____ day of _____, 20____, revoking all previous healthcare powers of attorney and medical treatment instructions.

_____
CLIENT NAME

Note: Notarization of this document is not required in Pennsylvania, but if the document is both witnessed and notarized, it is more likely to be honored in some other states.

_____ _____
WITNESS WITNESS

COMMONWEALTH OF PENNSYLVANIA :
COUNTY OF PHILADELPHIA :

This record was acknowledged before me
on this ____ day of _____,
20____ by _____(Principal),
_____ (Witness), and _____(Witness).

_____
NOTARY PUBLIC

Wills

Terminology

- Administrator or Administratix: the person appointed by the Register of Wills to handle the estate of someone who died without a will, or if the executor named in the will has died, has been removed from the case, or does not wish to serve.

- Beneficiary: a person named in the Will, Trust, life insurance policy, retirement plan, etc. to receive all or a portion of another's property.

- Bequest: a gift of money or personal property made in a Will.

- Decedent: the person who has died

- Devise: a gift of real property made in a Will

- Codicil: is an amendment to a Will.

- Executor or Executrix: the person named in a Will who is responsible for settling the estate and carrying out the provisions of the Will.

- Gross Estate: everything which the Decedent owned or had an interest in at the time of his or her death, including life insurance, joint property, and certain transfers made during the Decedent's lifetime.

- Guardian: the one named to manage the personal affairs or property, or both of a minor child or incapacitated person.

- Intestacy: the distribution of property according to the state law when a person dies without a Will. *It does not mean that the Decedent's property automatically goes to the State if a person dies without a Will.*

- Personal Representative: alternative title to Administrator, Administratrix, Executor, and Executrix.

- Probate Property: property owned by a person in his or her own name.

- Non-Probate Property: property passing to another by operation of law (e.g. joint property held with a right of survivorship) or by a beneficiary designation (e.g. life insurance and retirement plans).

- Testator or Testatrix: the person who has made a Will.

- Trust: a method of holding property where one person (a trustee) owns and mages property for the benefit of others (the beneficiaries). The rights of the beneficiaries are established by the terms of the trust. A trust can be established in a Will or during the lifetime of the person creating the trust.

The Fundamentals

- A will is the basic instrument in order for a person to transfer his or her property after death.

- Any person who is at least 18 years old and has a clear idea of his or her assets may make a Will.

- A Will must be signed by the person making the Will at the end of the document. Any writing appearing after the signature of the person making the Will is not valid.

- A Will can be handwritten in Pennsylvania so long as the entire Will is written and signed by the person making the Will. This handwritten will is known as a "holographic will."

- The person signing a Will should sign in the presence of two witnesses. Better if the will is "self-proving."

    - A Will is "self-proving" if the testator and witnesses sign an affidavit in front of a notary that asserts that the witnesses acknowledge that (1) the testator had mental capacity, (2) they saw the testator sign the will, and (3) they were present and signed at the request of the testator. The Self-Proving Affidavit should in substance and form comply with 20 Pa.C.S.A. § 3132.1. The Self-Proving Affidavit prevents the witnesses from having to appear in-person at the Register of Wills to probate the principal's estate after the principal's death.

- The Will accomplishes a variety of functions to facilitate the transfer of property from the decedent to the designated beneficiaries. It allows an individual to control who gets what and how much, when and how and on what terms and conditions and for how long, and takes care of other details such as administration, fees and other matters like the appointment of a guardian for minor children.

- Although the decedent's wishes as expressed in a Will generally must be honored, a surviving spouse cannot be "cut out" of the Will in the absence of an agreement to the contrary, such as a premarital agreement. A surviving spouse is entitled to elect against the Will and receive a share of the decedent's assets. The share is determined by law. If a spouse elects to take against the Will, he or she must give up other assets, so the election must be made with care. A spouse may choose to sign and notarize a Spousal Waiver advising that they will not seek to elect against their spouse's will. Ask a VIP staff member for more information and a template waiver.

- If a person dies without a Will, or without an effective Will, this is known as intestacy. The person's property then will pass under the state laws. *See* 20 P.S. § 2101, et seq. State laws of intestacy generally provide that the decedent's property pass to the

decedent's spouse and children. If there is no spouse and/or children, the property is distributed to more distant relatives, including parents and siblings. If the relatives as specified by law cannot be found, the property passes to the state.

- The executor can be anyone, including a beneficiary. The executor should be someone the client trusts, and someone willing to accept the responsibility.

- Joint or co-executors must act together at each step of probating the estate. Therefore, it is often better to choose one executor and name an alternate executor. Clients are welcome to name multiple alternates.

- Similarly, leaving a home to multiple beneficiaries can be complicated and result in a tangled title. It can be helpful to counsel your client on different ways of holding title.

- VIP has template language available for additional will paragraphs depending on client's wishes. Ask a VIP staff member for more information.

- Dispositions of Tangible Personal Property by Memorandum ("Personal Property Memorandum") should only be for non-valuable items. The benefit is that the client can change the Personal Property Memorandum as often as desired; however, there is no law expressly permitting them as Pennsylvania case law is a gray on the issue, at best. Clients are encouraged to dispose of their valuable and meaningful personal property within the will, itself, either by direct devise or through the residual clause. VIP clients are always welcome to contact VIP for potential assistance updating their will if they need to make changes. A template Personal Property Memorandum is available upon volunteer request.

- The Self-Proving Affidavit must be signed, dated, and notarized. Separate testator acknowledgement and witness affidavit templates are available upon volunteer request.

Practical Tips

- VIP assists clients with simple wills. In general, there are no trusts involved (with a few exceptions) and client has minimal assets. See a VIP staff member if the client has more complex issue.

- Co-executors may be appointed, but it is not recommended. Such an appointment may lead to administrative difficulties because the co-executors must act together.

- An executor and an alternate executor should be named, but an alternate is not required.

- Understand the nature of the client's property and its approximate value. This is important if client wants to leave a specific bequest to one beneficiary and the residue to another. Look at real property, personal property, and the residue.

    - Discuss client's ownership of their home

        - If there is a co-owner, it is important to explain the relationship between the deed and the will.

            - Joint Tenants with Rights of Survivorship – client's share in the joint tenancy will pass to the co-owner(s) by operation of law if client predeceases co-owner(s). The will does not change that. Client's share will only pass through the will if client survives the co-owner(s).

            - Tenants in Common – client may only leave their share of the property in the will.

    - Client can make specific bequests of personal property – cash, jewelry, car, furniture, etc.

    - Any property, real or personal, that remains after the specific bequests is the residue. The residue clause can include money in bank accounts, any property acquired after the will is executed, etc.

- Discuss client's beneficiaries

    - What are the beneficiaries' names and their relationships to client?

        - Step- and foster children would not inherit under intestacy law; they need to be listed in the will to inherit.

        - The will can provide for future children, and it can distribute future assets.

    - Are any beneficiaries minors?

        - Who will be guardian of their estates (finances)? Who will be guardian of their persons (health/welfare)? This can be the same person, or different people.

        - Is the minor's inheritance valued below $25,000? If so, a PA Uniform Transfers to Minors Act (PUTMA) custodial account can be created in the will. Money and property can be placed in a PUTMA custodial account as long as the total value is below $25,000.

    - Are any beneficiaries disabled and/or receiving SSI or Medical Assistance?
        - If the beneficiary is or may be receiving SSI or medical assistance at the time of inheritance, a Special Needs Trust may be necessary. VIP does not regularly assist with Special Needs Trusts due their complexity. See a VIP staff member if client has this issue.

    - Does the client intend to make charitable bequests?
        - Gather the full and correct name of the organization and its address.

    - Who are the contingent beneficiaries?

        - ALWAYS ask: if the intended beneficiary passes before you, who should receive that share?

        - Shares can pass to surviving named beneficiaries (per capita), the heirs of the deceased beneficiary (per stirpes), or someone else entirely.

    - Spouses cannot be disinherited in Pennsylvania unless there is a prenuptial agreement stating otherwise.

        - The spouse can elect the greater of the following:
            - The statutory spousal share, OR
            - His share under the will.

        - If the spouse agrees to be left out of the will, the spouse may execute an affidavit stating that they will not pursue their spousal elective share. See a VIP staff member if this comes up.

- Funeral arrangements can be included in the will, but it will not be binding. VIP recommends that funeral arrangements be in a separate letter since the will may not be looked at until after the funeral.

- Will substitutes, such as life insurance policies, pensions with named beneficiaries, joint accounts, and Payable on Death (P.O.D>) Accounts, are non-probate assets. They are not subject to the state's probate or intestacy laws, with the exception of payment of inheritance taxes. The property is transferred to the beneficiary upon the death of the owner, usually with just a submission of a death certificate.

    - Life insurance is special! There are no inheritance taxes or income taxes on life insurance proceeds when a surviving beneficiary is named in the policy.

        - If any portion of the life insurance proceeds pass through the estate because a named beneficiary predeceases client or the estate is a named beneficiary, that portion will be subject to inheritance tax.

    - Client should be counseled to name beneficiaries within the life insurance policy, pension, pay-on-death accounts, or other will substitutes.

- Changes to the will should be made codicil only. Client should not write or strike anything on the executed will. Client should reach out to VIP for help preparing a new will that revokes the old one.

- Will can be fully executed with a notary. However, guidance from the Register of Wills recommends the additional Self-Proving Affidavit page which must be notarized. This page must be separate from the will's signature page. It can be executed at a different time from the will, if needed. This is not recommended.

    - Client and witnesses must have valid, government-issued ID, that is not expired, to present to the notary. Reach out to VIP to discuss if this is not possible.

        - Alternatives to client having valid ID:
            - Attorney can vouch for their client to the attorney, if they are willing. (VIP will not ask you to do this!)
            - If the client knows a notary personally and the notary knows client is who they say they are, they can notarize without the photo ID.

Will Template

LAST WILL AND TESTAMENT
OF
CLIENT NAME

I, CLIENT NAME, residing at 123 Main Street, Philadelphia, PA 12345 being of full age, sound mind and under no restraint declare this to be my Last Will and Testament and hereby revoke all prior wills and codicils.

FIRST: I direct that the expense of my last illness and funeral be paid out of my estate as soon as may be convenient after my death.

SECOND: I appoint my daughter, Jane Doe of 456 Broad Street, Philadelphia, PA 12345, as Executor of this my Will. I direct that my Executor shall not be required to furnish security or to give bond for the faithful performance of her duties. In the event that she should predecease me or be unable to serve I designate as an alternative, my son, John Doe of 789 Broad Street, Philadelphia, PA 12345.

THIRD: I direct that my Executor shall engage an attorney of her own choosing as Attorney for my estate should she need legal advice.

FOURTH: I give, devise and bequeath to my spouse, Bob Doe of 123 Main Street, Philadelphia, PA 12345, my property at 123 Main Street, Philadelphia, PA 12345. If he shall predecease me, I give this property, in equal shares, to my daughter, Jane Doe of 456 Broad Street, Philadelphia, PA 12345, and my son, John Doe of 789 Broad Street, Philadelphia, PA 12345. If either of my children should predecease me, I direct that their share goes to the survivor of the two of them.

in the alternative: If either of my children should predecease me, I direct that their share goes to the predeceased child's heirs and assigns forever.

FIFTH: I give, devise and bequeath the following specific bequests:

1. I give, devise and bequeath to my husband, Bob Doe of 123 Main Street, my car, a 2012 Mazda.

2. I give devise and bequeath to my granddaughter, Jill Doe, my engagement ring.

in the alternative:

I give, devise, and bequeath all my household furnishings and personal effects to my daughter, Jane Doe of 456 Broad Street, Philadelphia, PA 12345, and my son, John Doe of 789 Broad Street, Philadelphia, PA 12345, with equal shares to all. If any of my named beneficiaries predeceases me, I direct that their share go to the surviving named beneficiaries in equal shares.

SIXTH: In the event that MINOR BENEFICIARY is a minor at the time of my passing, I direct my Executor to open a custodial account entitled "CUSTODIAN'S NAME as Custodian under the Pennsylvania Uniform Transfers to Minors Act (PUTMA) for the benefit of MINOR BENEFICIARY'S NAME" and that the [funds and/or property worth less than $25,000] be [deposited into or held in] the custodial account until MINOR BENEFICIARY reaches the age of eighteen (18) years old.

SEVENTH: The share of any beneficiary under the age of 21 at the time of my death shall be held in separate trust by my daughter, Jane Doe of 456 Broad Street, Philadelphia, PA 12345, as Trustee, for the following uses and purposes:

(1) My Trustee shall apply the net income and principal as follows:

(a) So much of the net income and principal as my Trustee, in my Trustee's absolute discretion, deems appropriate for the beneficiary's health, support, maintenance, and education shall be paid to her guardian or applied directly for the benefit of said beneficiary.

(b) My trustee shall take any income or other resources available to the beneficiary from sources outside the Trust into consideration in exercising her discretionary authority with respect to the payment of income or principal to such beneficiary. My Trustee may accept as final and conclusive the written statement of the beneficiary or her guardian as to other available income or resources. My Trustee's decision to make any payment, whether from income or principal, shall be conclusive as to all persons.

(c) Any undistributed income shall be added to and made a part of the principal of said Trust.

(d) In the event the beneficiary dies prior to the termination of this Trust, this gift shall be distributed to my surviving beneficiary as set forth in Paragraph [Eighth].

(2) This Trust shall terminate and my Trustee shall distribute the balance of the Trust estate to the beneficiary when the beneficiary attains the age of 21 years.

(3) The Trust may be terminated prior to the stated termination date if my Trustee, in her absolute discretion, determines that there are insufficient assets remaining in the trust to warrant continued administration.

EIGHTH: I have intentionally made no provision in this Will for my son, James Doe, and this is not occasioned by any oversight or mistake, but because I do not wish him to receive any share of my estate.

in the alternative:

No provision is made in this Will, not out of any lack of love or affection for James Doe, but because I do not wish him to receive any share of my estate and believe he is already well provided for.

NINTH: With respect to my Digital Assets, I authorize my Executor to:

(1) access and obtain copies of any of my electronically stored information from any person or entity that possesses, custodies, or controls that information, including, but not limited to, entities that may be subject to the Stored Communications Act or similar applicable state law;

(2) decrypt any encrypted electronically stored information or to bypass, reset, or recover any passwords or other kind of authentication or authorization necessary to gain access to my Digital Assets;

(3) waive any confidentiality that I may have had under any Terms of Service Agreement or Privacy Policy that I had previously agreed to in regards to any Digital Assets to the extent allowable under such Terms of Service or Privacy Policy; and

(4) have all powers as an authorized user, to distribute and dispose of my Digital Assets, and to exercise all other powers that an absolute owner of any such Digital Asset would have, and any other powers appropriate to achieve the proper investment, management and distribution of my Digital Assets.

In furtherance of the powers provided to my Executor with respect to my Digital Assets, I hereby authorize, to the extent permitted by federal and state law, including the Electronic Communications Privacy Act of 1986 (which includes the Stored Communications Act), as

amended, the Computer Fraud and Abuse Act of 1986, as amended, any person or entity that possesses, custodies, or controls any electronically stored information of mine or that provides to me an electronic communication service or remote computing service, whether public or private, to divulge to my executor: (a) any of my electronically stored information; (b) the contents of any communication that is in electronic storage by that service or that is carried or maintained on that service; and (c) any record or other information pertaining to me with respect to that service. This authorization shall be construed to be my lawful consent under the Stored Communications Act, as amended, and any other applicable federal or state data privacy law or criminal law. The terms and powers provided in this paragraph shall be broadly construed.

"Digital Assets" means files stored on my digital devices, including but not limited to, desktops, laptops, tablets, peripherals, storage devices, mobile telephones, smartphones, and any similar digital device which currently exists or may exist as technology develops or such comparable items as technology develops, whether or not included in my probate estate. The term "Digital Assets" shall also include but is not limited to all emails, email accounts, digital music, digital photographs, digital videos, software licenses, social network accounts, file sharing accounts, financial accounts, usernames and passwords, domain registrations, DNS service accounts, web hosting accounts, tax preparation service accounts, online stores, affiliate programs, other online accounts and similar digital items which may currently exist or may exist as technology develops or such comparable items as technology develops, regardless of the ownership of the physical device upon which the digital item is stored, whether or not included in my probate estate.

TENTH: I give, devise and bequeath the rest and residue of all my property, whether real, personal, or mixed to my daughter, Jane Doe of 456 Broad Street, Philadelphia, PA 12345, my son, John Doe of 789 Broad Street, Philadelphia, PA 12345, and my granddaughter Jill Doe of 789 Broad Street, Philadelphia, PA 12345, with equal shares to all. If any of my named beneficiaries predeceases me, I direct that their share goes to the surviving named beneficiaries in equal shares.

ELEVENTH: All pronouns and terminology within this document referring to a specific gender shall be considered to refer to all genders.

TWELFTH: I direct that all estate, succession, or other death and transfer taxes be paid out of the principal of my estate, just as if such taxes were debts. No one having any beneficial interest in any property under this my Will shall be required to refund or pay any part of such taxes.

IN WITNESS WHEREOF I have set my hand and seal to this, my Will, this ____ day of _____, 20___.

_____
CLIENT NAME

SIGNED, SEALED, PUBLISHED and DECLARED by the above-named Testator, CLIENT NAME, as and for their Last Will and Testament, in the presence of us, who at their request, in their presence and in the presence of each other, has hereunto subscribed our names as a witness.

_____	_____
WITNESS (SIGNATURE)	WITNESS (SIGNATURE)
_____	_____
WITNESS (PRINT NAME)	WITNESS (PRINT NAME)
_____	_____
ADDRESS	ADDRESS
_____	_____
CITY, STATE ZIPCODE	CITY, STATE ZIPCODE

SELF-PROVING AFFIDAVIT

COMMONWEALTH OF PENNSYLVANIA :

: SS.

COUNTY OF _____ :

We, ____CLIENT NAME_____, _____, and _____, the Testator and witnesses respectively, whose names are signed to the attached or foregoing instrument, being first duly sworn according to law, do hereby declare to the undersigned authority that the Testator signed and executed the instrument as a Last Will; that it has been signed willingly; that it was executed freely and voluntarily and for purposes therein expressed; that each of the witnesses, in the presence and hearing of the Testator and each other, signed the Will as witness; and that to the best of our knowledge the Testator was at that time eighteen (18) years of age or older, of sound mind and under no restraint or undue influence.

_____ _____

TESTATOR WITNESS

_____

WITNESS

Sworn to or affirmed and subscribed to before me by ____CLIENT NAME_____, the Testator, and subscribed and sworn to before me by _____, and _____, the witnesses, this ____ day of _____, 20__.

_____

NOTARY PUBLIC

Estate Planning Questionnaire

The information below will help your volunteer attorney to figure out what your estate planning documents should look like.

All of the information that you give to your attorney will be private and confidential. It is important that you give all of the information below to your attorney, so that s/he can create the best possible estate planning documents for you.

Client's Name: _____ Date: _____

ABOUT YOU AND YOUR FAMILY

Are you legally married?

If yes:

Name of spouse:

Do you have a pre-nuptial or post-nuptial agreement?

Were you previously married?

If yes, and you divorced your spouse:

Name of former spouse:

Date of divorce:

Did you and your former spouse have a written agreement about who would get which property?

If yes, and your spouse passed away while you were married:

Name of former spouse:

Date of death:

Have you ever been married and lived during that marriage in California, Texas, New Mexico, Nevada, Louisiana, Washington, Idaho, Wisconsin or Arizona (as these are community-owned property states)?

If you have any children or grandchildren, or any dependents living with you, please list them here:

Name	Relationship	Is this Person Your Dependent?	Date of Birth	Date of Death

Name	Relationship	Is this Person Your Dependent?	Date of Birth	Date of Death

ABOUT YOUR ASSETS (THINGS YOU OWN)

Do you own the home that you live in?

If yes:

Address:
Name(s) on Deed:
Approximate Value (if known):
Approximate Balance Owed on Mortgage:

Do you know who you want to leave this home to?

Do you own any other properties (houses or lots)?

If yes:

Address:
Name(s) on Deed:
Approximate Value (if known):
Approximate Balance Owed on Mortgage:

Do you know who you want to leave this property to?

Do you own any "personal property", such as:

Vehicles?
Jewelry?
Household furniture and furnishings?
Items of special value (art, antiques, collections)?

Do you know who you want to leave this property to?

Do you have any bank accounts in your name?

If yes:

Name of Bank?
Is this account joint?
Approximate amount:

Do you know who you want to leave this money to?

Do you have any life insurance?

If yes:

Name of Company:

Person insured (usually, you):
Beneficiary (person who will get paid):
Amount:

Do you have disability insurance?
If yes, amount:

Do you own/have an interest in any of these other things?

Stocks and Bonds
If so, how are they held – in a safe deposit box, broker's account, or bank custody account?

Do you know who you want to leave this property to?

Retirement plan (IRA, 401(k), pension)
If so:
Type:
Amount:
Beneficiary:

Business Interests
If so:
Name of Business:
Approximate value:
Are you a director or officer?
Do you know who you want to leave this interest to?

Interest in an estate or trust?
If so, please explain:

Potential future inheritances?
If so, please explain:

Do you have a safe deposit box?
If so:
Name and Branch of Bank:
In whose name is the safe deposit box rented?

OTHER IMPORTANT INFORMATION FOR YOUR ESTATE PLANNING DOCUMENTS
Do you already have a:
Will?
Living Will (a/k/a Advance Healthcare Directive)?
Financial Power of Attorney?
Health Care Power of Attorney and/or Proxy?

If so, do you want to change any of these documents?
If so, why?

If you have any dependents who are minor children:

Do you have an idea of who you want to be their guardian (to take care of them)?
Would you want the same person (their guardian) to be in charge of your children's finances (income and/or property)?

Are any of your beneficiaries disabled and receiving benefits?

Do you have an idea of who you want to be in charge of your estate (your property and your debts) after you pass away (meaning, the executor of your estate)?

Do you have an idea of who you want to get your property after you pass away (the beneficiaries of your estate)?

Do you have any instructions or wishes for your burial or cremation?

Do you know who you want to be your agent for a financial Power of Attorney?
If yes, agent's name?
Agent's address?
Alternate agent?
Alternate agent's address?

Do you know who you want to be your agent for a health care Power of Attorney?
If yes, agent's name?
Agent's address?
Alternate agent?
Alternate agent's address?

Have you considered your priorities for end of life care (comfort, preservation of mental function, etc.)?
If yes, what are your main goals?

Closing Letter Template

[Date]

CLIENT NAME
CLIENT STREET ADDRESS
CITY, STATE ZIP CODE

VIP Case Number: [Case No.]

Dear [CLIENT]:

Your estate planning case was referred to us for representation through Philadelphia VIP. We have helped you to prepare your estate planning documents, and you now have signed your documents before a notary and have the originals.

Here are some important reminders about your documents:

Will:

- *If you decide you want to change your Will in the future*, you should not cross out or make marks on your Will. Instead, you should have a new Will made.
- *You should keep your Will in a safe place*. However, be careful not to keep it in a safe deposit box (because it would be very hard for your heirs to access your safe deposit box without having the Will on hand once you have passed away).
- *You should tell a trusted family member or friend – usually, the Executor named in the Will – where you are keeping your Will*. If no one can find your original, signed Will once you pass away, then it is as if your Will does not exist.

Financial Power of Attorney:

- *Remember*: Your Power of Attorney is not effective until the Agent you named signs it.
- *If you want the Power of Attorney to be in effect now*, you should give the original to the Agent at this time and have her/him sign it. You should keep a copy of the Power of Attorney signed by the Agent.
- *If you do not want the Power of Attorney to be in effect now*, you should keep it in a safe place. When you decide that you want it to be in effect, you should give the original to your Agent and have her/him sign it. You should also keep a copy of the Power of Attorney signed by the Agent.
- *Caution*: If the Agent you named does not know the Power of Attorney exists, s/he would not know to look for it if something were to happen to you. As a result, it is best to let the Agent know that the document exists and where s/he can find the original if something were to happen to you.

Healthcare Power of Attorney and/or Living Will:

- *Original to Agent*: The original should be given to your Agent.
- *Copies for yourself and for healthcare providers*: You should keep a copy for your own records. Copies should also be given to any healthcare providers who may need to honor it. Healthcare providers may request to see the original document, but they will keep only a copy; if the request to see the original is made, you should be sure to return the original to the Agent right away.

Your case is now closed in our office. Thank you for allowing us to help you with these important Estate Planning documents. Should you need help with updating these documents in the future, or if you have any questions, please call Philadelphia VIP at (215) 523-9550.

Sincerely,

[YOUR NAME]
[YOUR TITLE]
[YOUR PHONE]

Please Contact Letter for
Client who has Fallen out of Touch Template

DATE

CLIENT'S NAME
CLIENT'S ADDRESS
CLIENT'S CITY, STATE ZIP

Dear CLIENT:

Philadelphia VIP referred your case to me for assistance with [TYPE OF CASE].

I left several messages for you at [PHONE NUMBER] on [DATE(S) OF PHONE CALLS], but I have not heard back from you. It is very important that we speak soon. *{You may give the client a reasonable deadline to return your call before you close their case: ex. If I do not hear from you by DATE, I will assume you no longer need assistance and your case will be closed.}*

Please call me at the [VOLUNTEER ATTORNEY'S PHONE NUMBER]. If I do not answer, you should leave a voicemail with the best number where you can be reached.

I look forward to hearing from you soon.

Sincerely,

VOLUNTEER ATTORNEY'S NAME

cc: [VIP STAFF MEMBER], via email

Closing Letter for
Client who has Fallen out of Touch Template

DATE

CLIENT'S NAME
CLIENT'S ADDRESS
CLIENT'S CITY, STATE ZIP

Dear CLIENT:

Philadelphia VIP referred your case to me for assistance with [TYPE OF CASE].

I assisted you with this case by taking the following actions:

- gathered [RELEVANT DOCUMENTS]
- analyzed whether you had [LEGAL CLAIM/GOOD DEFENSE/ETC.]
- prepared document on your behalf

I made several attempts to contact you regarding the next steps in your case, but I could not reach you. On [DATE], I sent you a letter requesting that you call me by [DATE]. Since I have not heard from you, I will be closing your case.

Please be aware that [THINGS THAT CLIENT SHOULD BE AWARE OF, SINCE CASE IS NOT COMPLETE; STEPS REMAINING IN CASE].

Should you have any questions or concerns, please contact [SPECIFIC VIP STAFF MEMBER] at [PHONE NUMBER].

Sincerely,

VOLUNTEER ATTORNEY'S NAME

Enclosures: [RELEVANT DOCUMENTS THAT CLIENT DOES NOT ALREADY HAVE ORIGINALS AND/OR COPIES OF]

cc: [VIP STAFF MEMBER], via email (without enclosures)

Appendix

- Click for Philadelphia VIP's Probate Guide: A Step-by-Step Resource for Homeowners. Instruct your client to keep a copy of this guide with their will, so those dealing with their estate have guidance on how to proceed.

- Click for Pennsylvania Power of Attorney Statutes – Title 20, Chapter 56

- Click for Pennsylvania Advance Healthcare Directives Statutes – Title 20 Chapter 54

- Click for Pennsylvania Wills Statutes – Title 20, Chapter 25