

## Wills and Estate Planning for Gynecologists

### Where there's No Will

If you do not write a Will, the State has already written one for you. Your assets go to whoever a state law says receives the assets, or to the government itself! A Will should be a statement to the things you truly care about: your spouse, your children, your parents, your friends, your Church and charities.

### If You Have No Will:

If you leave no Will or your Will is declared invalid because it was improperly prepared or is not admissible to probate:

1. People you dislike or people who dislike and ignore you may get your assets.
2. State law determines who gets assets, not you
3. Additional expenses will be incurred and extra work will be required to qualify an administrator-Surety Bond, additional costs and legal fees
4. You Lose the opportunity to try to reduce NJ Estate Tax, State inheritance taxes and Federal estate taxes
5. A Judge determines who gets custody of children. A greedy brother or crazy mother in law could ask the court for custody.
6. If you have no spouse or close relatives the State may take your property
7. The procedure to distribute assets becomes more complicated
8. It probably will cause fights and lawsuits within your family
9. If no partnership agreement or procedure to transfer patient files your medical practice "good will" could be lost.

When loved ones are grieving and dealing with death, they shouldn't be overwhelmed with Financial concerns.

Think- Who don't you want to receive your assets? Without a Will, they could receive your assets and request custody of children.

Who is not the best choice to raise your children, or safeguard your children's money for college? Do you want children, or grandchildren, to get money when they turn 18? Will they invest money wisely, or go to Seaside and play games? It is important to set forth distribution of a valuable property such as the "good will" of your medical practice, the phone number of a business and medical equipment you own.

A Will must not only be prepared within the legal requirements of the New Jersey Statutes but should also be prepared so it leaves no questions regarding your intentions.

## WHY PERIODIC REVIEW IS ESSENTIAL

Even if you have an existing Will, there are many events that occur which may necessitate changes in your Will. Some of these are:

- \* Marriage, death, birth, divorce or separation affecting either you or anyone named in your Will
- \* Significant changes in the value of your total assets or in any particular assets which you own
- \* A change in your domicile
- \* Death or incapacity of a beneficiary, or death, incapacity or change in residence of a named executor, trustee or guardian of infants, or of one of the witnesses to the execution of the Will
- \* Annual changes in tax law
- \* Changes in who you like

## MAY I CHANGE MY CURRENT WILL?

Yes. A Will may be modified, added to, or entirely changed at any time before your death provided you are mentally and physically competent and desire to change your Will. You should consider revising your Will whenever there are changes in the size of your estate. For example, when your children are young, you may think it best to have a trust for them so they do not come into absolute ownership of property until they are mature. Beware, if you draw lines through items, erase or write over, or add notations to the original Will, it can be destroyed as a legal document. Either a new Will should be legally prepared or a codicil signed to legally change portions of the Will.

A portion of your Will and Estate Planning can be deducted on your income tax return when it deals with tax planning. Thus, part of the fee is tax deductible for income tax purposes.

THE FOLLOWING IS A SAMPLE OF A VARIETY OF CLAUSES AND ITEMS WHICH KENNETH VERCAMMEN'S LAW OFFICE OFTEN INCLUDES IN A WILL

1ST: DEBTS AND TAXES

2ND: SPECIFIC BEQUESTS

- 3RD: DISPOSITION TO SPOUSE
- 4TH: DISPOSITION OF REMAINDER OF ESTATE
- 5TH: CREATION OF TRUSTS FOR SPOUSE
- 6TH: CREATION OF TRUST FOR CHILDREN
- 7TH: OTHER BENEFICIARIES UNDER 21
- 8TH: EXECUTORS
- 9TH: TRUSTEES
- 10TH: GUARDIANS
- 11TH: SURETY OR BOND
- 12TH: POWERS
- 13TH: AFTERBORN CHILDREN
- 14TH: PRINCIPAL AND INCOME
- 15TH: NO ASSIGNMENT OF BEQUESTS
- 16TH: GENDER
- 17TH: CONSTRUCTION OF WILL
- 18TH: NO CONTEST CLAUSE

Under the law in New Jersey, if a person dies without a Will and without children, their spouse will inherit all assets, even if they are separated from the spouse. In addition, if you have children from a previous marriage, but no Will, your separated spouse will get half your estate. In planning, make sure your assets go to your loved ones or favorite charity. Therefore, you may wish to do the following:

- 1) Have an Elder Law attorney prepare a Will to distribute your assets to the people you care the most about. Also set forth provisions regarding receiving the assets of your medical practice. If you already have a Will, prepare a new Will and have the old Will revoked. ( Your estate planning attorney will explain this to you.)
- 2) Prepare a Power of Attorney to select someone to handle your finances if you become disabled. Have your old power of attorney revoked.
- 3) Prepare a Living Will prepared
- 4) Change your beneficiary on assets you may own, such as stocks, bank accounts, IRA, and other financial assets. Change your beneficiary under your own life insurance, whether whole life insurance or term insurance.

- 5) Contact your employer's human resources and change the beneficiary on life insurance, pension, stock options or other employee benefits. Note that your spouse must sign a written waiver permitting you to change beneficiaries.
- 6) Keep your personal papers at a location where family can find them.
- 7) Have your attorney prepare a prenuptial agreement if you decide to get married.
- 8) Make sure the trustee for any funds designated for your children is the "right" trustee.
- 9) In New Jersey, if you are married and living with your spouse, under certain instances the surviving spouse has a right to "elect against the Will" The disinherited spouse may like to elect against the Will and try to obtain one third of the estate. Your attorney can explain how you can protect yourself and your children.
- 10) If you have minor children, nominate someone under a Will to serve as guardian to the children. Although the surviving parent obviously has first right of custody of children, they may not even want custody.

SAVE MONEY- Have your attorney prepare a self- proving Will with a No bond clause

Your estate will be subject to probate whether or not you have a Will and in most cases, a Will reduces the cost by eliminating the requirements of a bond. With a well-drawn Will, you may also reduce death taxes and other expenses. Don't pinch pennies now to the detriment of your beneficiaries

The proper preparation of a Will should involve a careful analysis of the your assets, family and desires. Estate Planning is the process of examining what will happen to your property when you die and arranging for its distribution in such a manner as will accomplish your objectives.

The cost of a Will depends on the size and the complexity of the estate and the plans of the person who makes the Will.

Be sure your Will takes into account the 2009 Federal Tax changes and all New Jersey Inheritance Tax changes. Also, ascertain if your Will is "self-proving", which would dispense with having to find the Will's witnesses after death.

Everyone who has any assets or minor children should have a Will. You do not have to be wealthy, married, or near death to do some serious thinking about your Will.

## ADMINISTRATION OF AN ESTATE

If you are named the executor or executrix, you must visit the County Surrogate to probate the Will. You will need the following items:

1. The Death Certificate
2. The Original Will
3. Names and Addresses of decedent's, next of kin and will beneficiaries
4. Minimum of \$110.00 for Surrogate fees

A state inheritance tax return must be filed and the tax paid on the transfer of real or personal property within eight months after death.

**CONCLUSION**

Planning can only be done if someone is competent and/or alive. Make sure your assets can be passed directly to your loved ones.

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