

## Definitions

- (a) **Will** – document executed according to legal requirements. If correctly executed and drawn, as proven in “probate,” will be enforced through “estate administration.”
- (b) **Probate** – the process of proving the validity of a will.
- (c) **Estate administration** – the process of enforcing a will. Considered part of “probate.”
- (d) **Executor** – the person named in your will who “executes” its terms.
- (e) **Personal representative** – the person appointed by the Court to carry out the terms of your will, or, if you died without a will, the terms of the “default will” created by statute.
- (f) **Intestate** – without a will.
- (g) **Testate** – with a will.
- (h) **Trust** – a fictitious legal entity like a corporation. Created by (a usually written) agreement between the “settlor” and the “trustee,” which directs the trustee to administer some asset or assets (called the trust “corpus”) for the benefit of a person or entity, the “beneficiary.”
- (i) **Living trust** – a trust created and “funded” during your life. The most common living trust is a “revocable living trust,” or “RLT.”
- (j) **Testamentary trust** – a trust created and “funded” upon your death. The most common testamentary trusts are trusts for children, called “minor’s trusts” or “children’s trusts,” but which might last long after the child achieves the age of majority (18 in Maryland).
- (k) **Revocable trust** – a trust you can change or revoke, and the assets of which you can give away, spend, sell, reinvest or reallocate. In the garden-variety revocable living trust or RLT, you are the grantor, trustee and sole beneficiary. If a married couple sets up an RLT, they are joint grantors and trustees, and joint beneficiaries during their joint lives; the survivor fills all roles after the death of the first spouse to die.
- (l) **Irrevocable trust** – a trust you can’t do those things to.
- (m) **Funding** – the process of transferring assets to the trust to be administered by the trustee for the benefit of the beneficiary according to the terms of the trust.
- (n) **Grantor** – the person who grants power to the trustee. Also called a “settlor” and “trustor.”
- (o) **Trustee** – the person or entity (bank trust department, trust company, etc.) who manages the assets of a trust according to its terms for the benefit of the beneficiaries.
- (p) **Beneficiary** – the person or entity (charity, etc.) for whose benefit the trust assets are managed by the trustee and, usually, to whom trust assets are distributed.
- (q) **Living will** – a document telling your doctor how to handle “end-of-life situations.” Often ineffective because your doctor doesn’t want to be sued for guessing wrong.
- (r) **Advance care directive** – a document containing your intentions regarding end-of-life care. Can be a directive to your doctor (like a living will) or coupled with a “medical power of attorney.”
- (s) **Power of attorney** – a document “attorning” (giving your power over your assets) to your “attorney.” The person giving the power is called the “principal”; the person receiving the power is called the “agent” or “attorney in fact.” Has nothing to do with your lawyer – an “attorney at law.” Two varieties: (a) asset power of attorney, giving power over your assets and financial affairs, and (b) medical power of attorney, giving power over your medical care if you are unable to make an informed decision about your care for yourself.
- (t) **Guardianship** – the legal process for naming someone to act for you if you have not nominated someone in a power of attorney for assets or medical care. Two varieties: (a) guardian of the assets, and (b) guardian of the person.
- (u) **Fiduciary** – someone who acts for you in a position of trust. Common fiduciaries are your executor, trustee, agent or attorney in fact, and guardian.