

Majlis Ansarullah USA

Importance of will

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All Ansar must familiarize themselves about the importance of executing their will and last testament according to the laws of the state they live in. Some legal definitions and general guidelines are provided for the benefit of Ansar brothers.

Allah says in the Holy Qur'an:

"It is prescribed for you, when death comes to any of you, if he leaves much wealth, that he make a will to parents and near relatives to act with fairness; it is an obligation on those who fear God." (2:181)

Prescribed shares for parents and near relatives are detailed in Surah Al-Nisa (4: 8-15 and 4:177).

Rules and Regulations have been further clarified in Fiqah Ahmadiyya in the chapter on Inheritance and should also be consulted before preparing a will.

Any debts of the deceased, Chanda pledges to the Jamaat and payment of Wasiyyat must

be made before the estate is divided among relatives of the deceased.

A Will is used to distribute the assets of the person making the Will (the "Testator") upon their death. It can also be used to express preferences regarding guardians of minor children.

A will is a formal statement of your commands about administering your estate following your death. It must be prepared and executed with certain formalities, and comes into effect only when you die and it is properly submitted to the appropriate court. The will document must be witnessed by two individuals and notarized. Anyone is free to change his/her will at any time.

You have to make decisions about your priorities and exactly how you would like your assets distributed. You must make decisions about your overall plan, as well as specific assets, and who will serve as executor of your estate. If you are married, this means you should sit down with your wife and identify areas of agreement or disagreement, if any. A lawyer can provide some counsel but cannot resolve those disagreements.

Specific bequests allow you to leave specific property to specific parties as a part of your Estate Plan. You may want to leave specific dollar amounts or certain items to certain people or charities. These items will be distributed before the general distribution specified later in the will.

Be sure to clearly identify the gift. Be detailed enough so that there will be no confusion over what you are giving. Having these issues worked out and clear in your mind will save you time and money. Second, organize important personal information for delivery to your lawyer.

A will deals only with the disposition of the testator's property. Thus, a married couple does not have to have identical wills. However, it is important, whenever possible, that wills be coordinated to create an effective overall estate plan for the entire family. The original versions of your estate planning documents should be kept in a safe place that can be accessed easily when needed.

Your attorney may provide security for a will in a vault in his office. Using a safe deposit box is not recommended, as there can be significant delays in accessing them at critical times. Keep photocopies with other important personal documents in your home. Copies of other documents should also be given to your health care power of attorney and others named in your will.

Answers to some frequently asked questions are given below:

1. Who should I name the executor of my will? [[Go to Top](#)]

You don't have to name your spouse as executor of your estate and health care agent. You can name any legally competent individual or a qualified institution to be your executor. Any individual that qualifies under state law can be named as your agent in a power of attorney. You should focus on naming someone who is willing and able to fulfill the duties and who you feel comfortable will carry out your wishes.

The Executor or Personal Representative may be an individual, such as your wife or child, or a bank or trust company. Before selecting an individual, make sure that he/she can be trusted to manage all of the financial affairs involved in administration of your estate, and to deal appropriately with your family members.

2. What happens when there is no will? [[Go to Top](#)]

When there is no will, family members or another interested person must approach the probate court for appointment as the administrator of the estate. The probate process then unfolds much as if there were a will, except that the estate is distributed according to a rigid formula set in state law. Spouses and children, if any, will normally receive the assets. If there is no spouse or child, then each state has a list of next of kin who share the assets. If no one appears to seek appointment, a state official acts as administrator.

3. What is Probate? [[Go to Top](#)]

Probate is the process of administering the estate of a deceased person and involves the following steps:

1. A deceased person's will is first filed with the local court with jurisdiction over probate matters.
2. The domicile, or home, of the deceased person is established to ensure that the court has jurisdiction.
3. The will is identified as the last will of the deceased.
4. Authority is granted to the executor to act on behalf of the estate.
5. The assets of the deceased are collected and any taxes, debts and expenses are paid off.
6. All remaining assets are then distributed according to the terms of the will.
7. The executor must continue any business activities and invest and protect the estate's assets until the probate process is closed.

4. What happens to 401(k) and other retirement accounts when the owner dies? [[Go to Top](#)]

Every retirement account owner should designate a beneficiary who would get the account on death. If a beneficiary is not named or has died, the owner's estate becomes the beneficiary. If your beneficiary is your wife, she will have most of the same options with the money that you would have if you were leaving the company to take another job. Your spouse could roll the money over into an Individual Retirement Account (IRA), or withdraw it all and pay income taxes on it. If she elects simply to take the cash and pay income taxes, the Internal Revenue Service waives its early withdrawal penalty

regardless of her age. A married person cannot name someone other than the spouse as a beneficiary unless the spouse consents in writing. Make sure your beneficiary designation is up-to-date and consistent with your estate plan.

5. Is an income tax return due for a year in which a person dies? [\[Go to Top\]](#)

Yes, a person who dies still owes the IRS (and most states) an income tax return for income earned in the year of death. The survivors or the executor of the estate must file the return. Medical expenses incurred before death and paid within one year after death may be claimed as medical deductions on the decedent's final return or on the estate's tax return. To prevent a double deduction, the executor must file a waiver of right to claim the estate tax deduction if it is to be claimed on the decedent's return. Deductions for such medical expenses can be substantial. Since they must be claimed on either the decedent's return or the estate's return, it's important to determine which return should be used to maximize the value of the write-offs.

6. What are Inheritance Taxes? Inheritance taxes are state taxes that heirs must pay on the value of their inheritance. Estate taxes instead are levied by the state or federal government on the estate itself and the estate is the payor. You can specify in your will that you want your estate to pay any inheritance taxes, relieving the beneficiaries of this obligation.

7. What is a Living Trust? [\[Go to Top\]](#)

Federal Estate Taxes (the so-called "Death Tax") are due if your estate (or the combined estate of you and your spouse) exceeds the federal exemption amount in effect in the year of death (\$1,500,000 in 2004-2005). If your estate is greater than this amount it is recommended that you establish a living trust. A Living Trust Agreement is used by an adult, the "Grantor", to set up a revocable trust to hold the Grantor's property during his lifetime, and then distribute it upon death as directed in the Agreement.

A living trust is an instrument that takes effect immediately upon signing it. In a traditional trust, a person (the "grantor" or "settlor") creates a trust arrangement whereby the grantor transfers property to a person or institution (the "trustee") who assumes the obligation to take care of it according to the trust arrangement for the benefit of someone else (a "beneficiary"). With a living trust, these three parties are usually the same person. A successor trustee is also named to assume the trustee's role when the person dies. That successor then makes distribution of the trust according to the trust provisions.

When setting up a revocable living trust, it is very important to re-title your assets into the name of the trust. A revocable trust avoids probate only for assets that are titled in the name of the trustee of the trust. Any assets that remain in your individual name will be subject to probate. All property held in the name of your trust will be distributed to your beneficiaries according to the terms of the trust when you die.

Your tangible personal property (ordinary personal possessions, such as household goods, home furnishings, jewelry, and personal effects) must be put into the trust. The schedule attached to the trust provides that these items are transferred to the trust.

You do not need to do anything else with these items. (These items are not formally titled. There is no document, such as a deed or certificate of title, used to convey ownership of these items.)

Other items, such as intangible personal property (e. g., stocks, bonds, and other property rights represented by a certificate or formal instrument), real estate and bank and brokerage accounts must each be re-titled in the name of the trust. Doing so "informally" transfers ownership to the trust, but more work is required to complete those transfers. You must also transfer the ownership formally, by deed, new certificate or other new title document, as appropriate.

8. What is a Living Will? [[Go to Top](#)]

The Living Will (sometimes called a "Declaration") provides written directions on the use of life sustaining measures for a person who is unable to communicate health care directions.

9. What is a Health Care Power of Attorney?

The Health Care Power of Attorney is used to authorize someone else to make health care decisions for you if you are unable to make those decisions for yourself.

10. How much does it cost to prepare a will?

Although it is recommended that an estate attorney be consulted and the will executed in their office, the cheapest and fastest way to write a will is to do it yourself. For \$20 or so you can write your will online, print and sign it in the presence of two witnesses and get it notarized. Some will-writing web sites are: <http://www.buildawill.com>, <http://www.legacywriter.com> and <http://www.lawdepot.com>.

At a lawyer's office, the usual and customary charge for a simple will is \$200-300. A living trust is considerably higher and depending on the complexity of the document may cost \$1500- 2500.

11. What is "long-term care" and how much does it cost? [[Go to Top](#)]

Long-term care is a name given to the entire range of assistance and support provided to anyone suffering from a chronic disability that impairs the capacity to perform basic activities of everyday living. Most commonly, it is used in connection with the elderly who often suffer from arthritis, memory loss, failing eyesight and hearing and other infirmities. It includes a broad range of supportive medical, personal and social services that can be provided in a nursing home, the person's home, an adult-day care facility, or an assisted living facility. There are three levels of care: skilled (or acute) care; intermediate care; and custodial (or personal) care. Custodial is by far the most common.

According to the Health Insurance Association of America, your risk of needing long-term care at age 50 is one in five. At age 65, it's 4 in 10. At age 75, it's 7 in 10. A particular person may have a greater chance of needing long-term care based upon their medical

and family history.

According to the National Association of Insurance Commissioners, the average cost nationally of a year in a nursing home is \$38,000, but costs vary geographically and based upon the level of care provided. Costs can range as high as \$80,000. Home-care expenses can range from \$90 to \$150 a day. Almost one-third of all long-term care bills are paid by individuals and families out of their own funds. About 40% are paid by Medicaid, but this publicly funded program is available only after an individual's assets have been reduced to the poverty level. Long term care insurance, such as Medigap, is available, with increasing premiums as the insured person grows older.

12. What funeral arrangements are available in USA? [[Go to Top](#)]

The USA Jamaat has established "Maqbara-tus-Salaam" at Memorial Cemetery in Sykesville, Maryland, a suburb of Baltimore. A number of gravesites, including a "Qita-e-Moosian", have been set aside for the Jamaat. If an Ahmadi dies anywhere in USA, the body may be transported and buried in this graveyard. The body should be bathed and prepared in the proper Islamic tradition at a local funeral home. Funeral home expenses, including a simple casket, are about \$3000. The gravesite generally costs \$1000 and transportation another \$1000. It is essential, therefore, to budget at least \$5000 for final expenses. As a special box is needed for international transportation, transfer of the body to Pakistan or India would cost about the same.

Contact Bashiruddin K. Ahmad (Qaid, Zahanat & Seht-e-Jismani) for additional information.

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