SKILL GUIDE · DIGITAL DATA & DOCUMENTS

Wills, Power of Attorney & Guardianship

The Document Go-Bag guide already lists wills, powers of attorney, and guardianship papers among the documents to gather and protect. It doesn't cover how to actually create them, which is the real gap: most households don't have these documents at all, not just unprotected copies of them. This guide is that missing step.

Why this is a Tier 1 skill, not a someday task

Survey estimates of how many Americans have a will range from about 24% to 46% depending on how the survey is done, phone polls consistently find more will-holders than online panels, but every methodology agrees most adults don't have one. A 2026 nationally representative survey found 56% of U.S. adults have zero estate planning documents in place of any kind, not just a missing will. None of this requires a disaster to matter: incapacity from an ordinary accident or sudden illness raises the exact same questions a disaster does, who makes your medical decisions, who can pay your bills, who raises your kids, and it can happen on an ordinary Tuesday.

What actually happens without these documents

Dying without a will means your state's **intestate succession** law decides who inherits, a fixed formula that doesn't know or care what you actually wanted, and typically prioritizes a spouse and children, then parents, then siblings, in an order and split you don't get to choose. If you have minor children and no other living parent named, a court decides who raises them, based on the child's best interest as the court sees it, not necessarily who you would have picked. Becoming incapacitated without a financial or healthcare power of attorney on file is often worse in practice: your family may need to petition a court for a conservatorship or guardianship over you, a slower, more expensive, and more public process than paperwork you'd already signed.

The four documents, and what each one actually does

Document	What it does	When it takes effect
Will	Names who inherits your property, and, if you have minor children, names their guardian	Only after death
Financial power of attorney	Names someone to pay bills, manage accounts, and handle your finances	As soon as it's signed (a non-durable POA), or only upon incapacity (a durable POA, the version almost everyone actually wants)
Healthcare power of attorney / advance directive	Names someone to make medical decisions for you, and can spell out your own treatment wishes directly	Only when a doctor determines you can't make your own decisions
HIPAA authorization	Lets a named person actually see your medical records and talk to your providers	As soon as it's signed

A healthcare power of attorney names a decision-maker; an advance directive (sometimes called a living will) spells out your own wishes directly, useful even to someone who already has an agent, since it tells that agent what you'd actually want rather than leaving them guessing. Sign a HIPAA authorization alongside the healthcare power of attorney: without it, your named agent can legally have the authority to decide but still get turned away by a hospital that won't discuss your records with them.

WARNING

If you have minor children, the guardianship line is the one that matters most

A will's guardianship nomination is what a court actually looks to first when deciding who raises your kids if both parents are gone; without it, that decision goes to a judge who has never met your family. Name a primary guardian and a real backup, someone willing and able, that you've actually asked, not just a relative it would be awkward to leave out.

DIY versus an attorney

Option	Typical cost	Best fit
DIY (free template or handwritten)	Free–$100	A single adult with a simple, small estate and no minor children; still carries real execution risk, see below
Online will service	$10–$250 (commonly around $160)	A simple estate with clear wishes and no unusual family or asset situations
Attorney-drafted	$250–$1,000+ for a basic will; more for trusts or a complex estate	Blended families, business ownership, a special-needs dependent, significant assets, or any real disagreement risk among heirs

The dollar difference is real, but it's not the deciding factor. A will's job is to hold up exactly once, after you're not around to fix a mistake in it, so the more complicated your actual situation is, the more that one-time correctness is worth paying for.

Getting it witnessed correctly: where DIY attempts most often fail

A will isn't valid because you wrote and signed it, it's valid because your state's specific execution rules were followed, and this is the step a DIY attempt most often gets wrong. Most states require the will-maker's signature plus at least two witnesses, ideally people who don't inherit anything under it, signing within a reasonable time of watching you sign or acknowledge it. Notarizing a **self-proving affidavit** alongside the witnessed signatures isn't required to make the will valid, but it lets a court accept it without tracking down your witnesses later to testify, worth doing even though it's optional.

About 27 states plus D.C. also recognize a **holographic will**, entirely in your own handwriting and signed, with no witnesses required at all, but the rules for what counts vary by state and this format carries more risk of an ambiguous or incomplete document holding up in court.

> WARNING
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> **Don't notarize a handwritten (holographic) will**
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> If you're relying on the holographic-will path, skip the notary. In some states, notarizing a document that was supposed to qualify as holographic can actually void it, since notarization isn't part of what makes that format valid in the first place. A witnessed will and a holographic will are two different, non-overlapping paths to a valid document; don't mix their requirements.

Northern Utah note: Utah's actual rule

Utah Code § 75-2-502 requires the will-maker's signature plus two witnesses for a standard will. Utah also recognizes holographic wills: no witnesses or notary needed if the signature and the material portions, the parts naming who gets what, are entirely in your own handwriting.

Where to get real help without paying full private rates

- **Your state bar's lawyer referral service.** Nearly every state bar runs one: describe your situation, get matched with an attorney who actually handles estate planning, and the first consultation is typically free or capped around $25–$50 for the first 30 minutes.
- **Legal aid.** Income-qualified households (commonly 125–200% of the federal poverty level) can often get a will and basic estate documents drafted for free through a state or local legal aid organization.

Storing what you create

Once these are signed, they belong with the rest of your vital documents: the Document Go-Bag guide covers the fire/water-rated safe, the go-bag copy, and the digital backup these documents should go into alongside everything else. Tell your named agents and guardian where to find the originals; a perfectly executed document nobody can locate when it's needed accomplishes nothing.

Sources

- 2026 estate planning ownership rates and generational breakdown: Trust & Will 2026 Estate Planning Report; will-ownership survey methodology variance: Gallup; Caring.com
- Intestate succession and court-decided guardianship for minor children: LegalZoom; Trust & Will
- Financial power of attorney, healthcare power of attorney, advance directives, and HIPAA authorization, how they differ: CaringInfo; American Academy of Estate Planning Attorneys
- DIY, online, and attorney will costs: Ethos; Trust & Will Guide
- Witness requirements, self-proving affidavits, and holographic wills by state: Cornell Legal Information Institute; Holographic will requirements survey
- Utah will execution requirements, Utah Code § 75-2-502, and Utah's holographic will rule: Utah State Legislature; Utah Legal Services
- State bar lawyer referral services and legal aid income eligibility: State Bar of California (representative example)