This Manual incorporates changes resulting from case law and legislation through the year 2017.
TABLE OF CONTENTS

Introduction and Instructions...................................................................................................................

CHAPTER 1: Information List...........................................................................................................................

CHAPTER 2: Asset and Debt List......................................................................................................................

CHAPTER 3: Estate Procedures Checklist........................................................................................................

CHAPTER 4: Checklist for Probate Without Present Administration..............................................................

CHAPTER 5: Checklist of Important Dates (Estates)........................................................................................

CHAPTER 6: Probate Manual Letters (“PML”)................................................................................................

CHAPTER 7: Probate Manual Forms (“PMF”) (Estates)....................................................................................

CHAPTER 8: Probate Manual Forms (“CSTF”) (Trusts)..................................................................................

CHAPTER 9: Probate Manual Forms (“GCF”) (Guardianship and Conservatorships).................................

CHAPTER 10: Internet Links..........................................................................................................................

Access Forms in Chapter 6-9 in Word Format
INTRODUCTION AND INSTRUCTIONS
INTRODUCTION AND INSTRUCTIONS

GENERAL

The Iowa State Bar Association Probate Manual is designed to render assistance on a practical level. It is not, nor is it intended to be, a scholarly treatise on the substantive law of the administration of decedents' estates.

PURPOSE OF THE MANUAL

This Manual incorporates changes resulting from case law and legislation through the year 2017.

Properly used, the Manual will reduce the amount of time which the attorney must spend on the routine, repetitive matters present in the administration of every estate, and thereby permit the attorney to spend a greater proportion of available time on those estate matters which require the exercise of judgment, experience and legal training. Even more importantly, the Manual provides checklists to alert the attorney to deadlines, elections and alternate procedures in an effort to avoid problems in probating an estate.

Successful probate practice depends on sound office management, including the standardization of office procedures and efficient use of personnel. Many steps in a probate proceeding can be handled by nonlawyers in the office under the supervision of the attorney, saving lawyer time for more complex matters.

While a single set of procedures can neither fulfill the requirements of all law offices nor meet the demands of all probate proceedings, this Manual offers ways to streamline office procedures and to delegate routine work in probate practice. Not all of the procedures and practical aids outlined will be new to the experienced practitioner. Deliberate emphasis is placed on matters that may plague the lawyer or assistant encountering a probate file for the first time. The basic purpose is to provide a source book that is practice oriented.

Many forms in this manual contain alternative provisions or clauses. In each instance, the attorney should determine the preferred provisions [Option 1, Option 2] so the form is appropriately prepared for the specific matter.

CAVEAT

The Manual is not intended to be all inclusive. Neither the Iowa State Bar Association nor the Probate and Trust Section intends for a practitioner to rely upon the Manual without independent legal research. It is your responsibility to ensure that you are utilizing the most recent case law, statutes, and forms. Reliance on this Manual alone will not ensure that you are providing your clients with an appropriate level of competence for their particular situation.
The Iowa Judicial Branch Electronic Data Management System (EDMS) is now operational in all Iowa counties. Practitioners should be sure to consult with Chapter 16 of the Iowa Rules of Court to ensure compliance with EDMS filing requirements. There are a number of sections of the Iowa Probate and Trust Code that directly contradict the EDMS Rules. EDMS Rule 16.103 states, “To the extent these rules are inconsistent with any other Iowa Court Rule, the rules in this chapter shall govern in cases subject to electronic filing.” Note in particular Division VI of Chapter 16 regarding the protection of personal information (social security numbers, dates of birth and other personal identifiers) in electronic filings. Social Security Numbers and other personal identifiers should not be disclosed on court documents open to the public due to concerns about fraud and identity theft. See also: www.iowacourts.state.ia.us/efile/ to register as a filing agent, find EDMS manuals and training materials, review EDMS system updates and ALERTS and to electronically file documents.

ORGANIZATION OF THE MANUAL

The Manual has 10 Chapters, organized as follows:

Introduction and Instructions. General guidelines and instructions on how to use the Manual.

1. Information List. The Information List is designed to elicit and record the factual information about the Decedent, and the Decedent's family, beneficiaries and advisors that is needed to administer an estate. An Information List can be included in each estate file.

2. Asset and Debt List. The Asset and Debt List is designed to elicit and record the factual information about the decedent's assets, liabilities, death benefits and other pertinent information needed to probate an estate. Although the Asset and Debt List may appear to be lengthy, the information sought will be needed in probating an estate. Not every estate will have all the types of assets or liabilities categorized, but use of the List should help the attorney and Personal Representative inquire about and determine all relevant information about the Decedent.

Information recorded in the Information List and Asset and Debt List can be transferred quickly and easily to the manual's forms and form letters, eliminating tedious drafting for the attorney or legal assistant. The information List and Asset and Debt List can be easily copied for use in each estate file.

3. Estate Procedures Checklist. The Estate Procedures Checklist is a checklist of many of the actions which may be necessary to administer an estate. The applicability of each of the items listed under "topic" should be reviewed by the attorney. Relevant citations are made to Iowa Code Sections. Cross references are given to forms and letters in the Manual relating to the topic. The attorney can note the scheduling of actions or the assignment of tasks in the status column which allows constant monitoring of progress. The Estate Procedures Checklist can be included in each estate file.
4. **Checklist for Probate Without Present Administration.** The Probate Without Present Administration Procedures Checklist is similar to the Estate Procedures Checklist, but is tailored for the will that is admitted to probate without present administration.

5. **Checklist of Important Dates (Estates).** The probating of an estate has numerous deadlines that must be met for filing reports and returns, making elections or disclaimers and other important actions. The Checklist of Important Future Dates identifies these critical dates. The attorney should fill in the dates of the relevant actions after opening an estate and list those dates not only in the estate file but also cross index the dates in the attorney's own tickler system to prevent missed deadlines. Not every estate will require all the actions listed; however, reviewing the list and filling in the dates may alert the attorney to some other actions that may be necessary or advisable in the course of administration.

6. **Probate Manual Letters ("PML").** The letters included in the Manual have a variety of purposes, such as requesting forms for filing, providing general advice to the Personal Representative, making tax elections, demanding payment, etc. If the correspondence style of the attorney using the Manual differs from that of the author, form letters may be easily substituted.

7. **Probate Manual Forms ("PMF") (Estates).** These forms are designed to be used in a variety of estate situations that require filings of reports, applications, elections, and requests with the court. The forms use information from the Information List and the Asset and Debt List.

8. **Probate Manual Forms ("CSTF") (Court Supervised Trust Forms).** These forms are designed to be used with court-supervised trusts. Also included in this section are a Trust Checklist and a Trust Information Sheet.

9. **Probate Manual Forms ("GCF") (Guardianship and Conservatorship Forms).** This section provides basic forms to be used in opening a guardianship and/or conservatorship, meeting reporting requirements, and closing a guardianship and/or conservatorship. The forms use information from the Guardianship/Conservatorship Information List that appears at the beginning of this section.

10. **Internet Links.** This section includes internet links to: forms, instructions, and publications available from federal and state departments, the Rules of Probate Procedure, local rules from the various judicial districts in the state of Iowa, the administrative rules as adopted by the Department of Revenue relating to Inheritance, Estate Generation Skipping and Fiduciary Income Tax, and the following Chapters of the Iowa Code: Medical Assistance 249A, Inheritance Tax 450, Uniform Transfers to Minors, 565B, Probate 633, Trusts 633A, Powers of Attorney 633B, Medical Assistance Trusts 633C, Transfer on Death Security Registration 633D, Disclaimers 633E, Administration of Small Estate 635, Principal & Income Act 637.

The Iowa State Bar Association is pleased to provide the manual's contents on CD-ROM, included with the manual, to permit the forms of the manual to be easily used by practitioners.
SUPPLEMENATING THE MANUAL

Because the law is constantly changing, this Manual will need to be supplemented from time to time. For that purpose, the Committee solicits the suggestions and assistance of the users with regard to its form, content, checklists, forms, letters and other relevant material. Communications should be sent by letter to the Iowa State Bar Association Office, Attn: Probate Manual Editor. You will be given an opportunity to subscribe to updates when you register ownership of this Manual with the Iowa State Bar Association.

ACKNOWLEDGMENTS

The Manual is a project of the Probate, Trust and Estate Planning Section of the Iowa State Bar Association. The active members of the Probate Manual Committee for the 2017 version of the Manual were: Janice Kerkove of the Bradley & Riley law firm of Cedar Rapids and Iowa City, Sue Pence of Bankers Trust of Cedar Rapids, and Ann McCrea of Nazette, Marner, Nathanson, Shea, LLP of Cedar Rapids.
CHAPTER 7

PROBATE MANUAL
FORMS (ESTATES)
INDEX TO ESTATE FORMS

OPENING

Petition for Probate of Will and Appointment of Executor .......................... PMF 101/ISBA P203

Petition Requesting Hearing Prior to Admission of Will .................................. PMF101A

and Appointment of Executor

Testimony of Subscribing Witness ................................................................. PMF 102/ISBA P205

Order Admitting Will to Probate and Appointing Executor .................... PMF 103/ISBA P207

Waiver of Bond ............................................................................................... PMF 104/ISBA P228

Declination of Appointment as Executor ....................................................... PMF 105

Petition for Appointment of Successor Executor ........................................ PMF 106

Order Appointing Successor Executor ......................................................... PMF 107

Petition for Administration and Appointment of Administrator (Intestate) ... PMF 108/ISBA P227

Order Granting Administration and Appointing Administrator (Intestate) .... PMF 109/ISBA P229

Court Officer’s Oath - Individual ................................................................. PMF 110/ISBA P210

Court Officer's Oath – Corporate ................................................................. PMF 111/ISBA P211

Confidential Case Opening Data Form ........................................................... PMF 112/ISBA 342

Release of Information signed by Administrator ........................................ PMF 113

NOTICES & ELECTIONS

Notice of Probate of Will, of Appointment of Executor, and Notice to Creditors .................................................. PMF 201/ISBA P225

Notice of Appointment of Administrator and Notice to Creditors (Intestate) .................................................. PMF 202/ISBA P224

Notice to Trustee of Decedent’s Revocable Trust ........................................ PMF202A

Designation of Attorney ............................................................................... PMF 203/ISBA P215

Request for Notice ........................................................................................ PMF 204/ISBA P216
Appearance and Request for Notice ...................................................... PMF 204A
Limited Appearance and Request for Notice ....................................... PMF 204B
Notice to Surviving Spouse of Right to Take Elective Share .................. PMF 205/ISBA 350
Election of Surviving Spouse Related to Share of the Estate .................. PMF 205A/ISBA 351
Election of Surviving Spouse to Occupy Homestead .......................... PMF 206
Notice to Surviving Spouse of Right to Make Application for Allowance . PMF 207
Notice to Dependent Children of Right to Make Application for Support Allowance ........................................ PMF 207A
Combined Notice to Surviving Spouse .............................................. PMF 207B
Application for Support Allowance ................................................... PMF 401
Application by Dependent Child for Support Allowance ....................... PMF 401A
Application for Order [Fixing Time and Place of Hearing] Prescribing Notice (general) ......................................................... PMF 208/ISBA P221
Order [Fixing Time and Place of Hearing and] Prescribing Notice .......... PMF 209/ISBA P221
Notice in Probate ................................................................................ PMF 210/ISBA P223
Affidavit of Mailing Notice .................................................................. PMF 211/ISBA P222
Waiver of Notice of Hearing ................................................................. PMF 212/ISBA P232
Notice of Probate of Will, of Appointment of Executor, and Notice to Creditor (Medical Assistance Claim) .......................... PMF 213/ISBA 346
Notice of Opening Administration of Estate, of Appointment of Administrator and Notice to Creditor (Medical Assistance Claim) ................................................. PMF 213A/ISBA 345
Proof of Notice to Department of Human Services Estate Recovery ........ PMF 213B
Notice of Iowa Department of Revenue request decedent’s tax obligations .......... PMF 213C
Notice of Hearing ................................................................................ PMF 214
Acceptance of Service.................................................................PMF 215

CLAIMS

Claim in Probate ........................................................................PMF 301/ISBA P233
Notice of Disallowance of Claim ..............................................PMF 302/ISBA P235
Request for Hearing Upon Claim ............................................PMF 303/ISBA P234
Release of Claim .......................................................................PMF 304
Withdrawal of Claim ...............................................................PMF 305
Statement of Estate Claims Against Decedent’s Trust .................PMF 306

ADMINISTRATION

Inventory and Schedules ..............................................................PMF 400/ISBA P706
Amendment to Inventory ............................................................PMF 400A
Application for Support Allowance of Surviving Spouse/and
Dependent Residing with Surviving Spouse................................PMF 401
Application by Dependent Child Not Residing with
Surviving Spouse for Support Allowance..................................PMF 401A
Petition to Review Allowance to Surviving Spouse/Dependent Child........PMF 401B
Waiver of Notice and Consent to Support Allowance ..................PMF 402
Waiver of Notice and Consent to Dependent Child’s Application for
Support Allowance ....................................................................PMF 402A
Order for Support Allowance for Surviving Spouse and Dependent
Children Residing With Surviving Spouse .................................PMF 403
Order for Support Allowance for Dependent Child Not Residing
With Surviving Spouse ...............................................................PMF 403A
Dependent Child’s Waiver of Right to Request Support Allowance ........PMF 403B
Surviving Spouse’s Waiver of Right to Request Support Allowance ........PMF 403C
Order Modifying Allowance to Surviving Spouse/Dependent Child ..........PMF 403D
Application for Appraisal in Intestate Estate with Surviving Spouse...........PMF 404/ISBA P246
Order for Appraisal, Notice, Report and Objections in Intestate Estate with Surviving Spouse ..........................................................PMF 405/ISBA P247
Notice Regarding Appraisal in Intestate Estate with Surviving Spouse ....PMF 406/ISBA P248
Application for Allowance and Payment of Fees for Ordinary Services...........PMF 407
Application for Determination and Payment of Fees for Extraordinary Services ........PMF 407A
Waiver of Notice and Consent to Fees ..........................................................PMF 408
Order for Determination and Payment of Fees for Ordinary [and Extraordinary] Services ..........................................................PMF 409
Affidavit re Compensation - Attorney .....................................................PMF 410/ISBA P220
Affidavit re Compensation - Individual Fiduciary ..................................PMF 411/ISBA P220
Affidavit re Compensation - Corporate Fiduciary ..................................PMF 412/ISBA P220
Qualified Disclaimer ............................................................................PMF 413
Application to Declare Personal Property as Exempt ..............................PMF 414
Order Declaring Personal Property as Exempt ........................................PMF 415
Application for Disclosure of Electronic Communications .....................PMF 416
Order for Disclosure of Electronic Communications ................................PMF 417
Application for Disclosure of Digital Assets ...........................................PMF 418
Order for Disclosure of Digital Assets....................................................PMF 419

REAL ESTATE

Petition for Authority to Sell Property.....................................................PMF 501
Order [Fixing Time and Place of Hearing, and] Prescribing Notice on Petition for Authority to Sell Property ..................................................PMF 502
Notice of Petition for Authority to Sell Property ......................................PMF 503
Order Approving Sale of Property..........................................................PMF 504
Report of Sale .................................................................................................................. PMF 505
Order Approving Report of Sale ...................................................................................... PMF 506
Combined Petition for Authority to Sell Property and Report of Sale ....................... PMF 507
Waiver of Notice of Time and Place of Hearing on Petition and Report of Sale;
Consent to Sale of Property ............................................................................................ PMF 508
Order Authorizing Sale of Property and Approving Report of Sale ......................... PMF 509
Court Officer Deed .......................................................................................................... PMF 510/ISBA P201
Affidavit of Death Terminating Life Estate ................................................................. PMF 511/ISBA 179
Affidavit of Surviving Joint Tenant for Change of Title to Real Estate .............. PMF 512/ISBA 339
Affidavit That No Inheritance Tax Is Due ................................................................. PMF 513/ISBA 356
Affidavit of Surviving Spouse for Change of Title to Real Estate ...................... PMF 514/ISBA 177
Report of Change of Title ............................................................................................... PMF 515/ISBA 112

INTERLOCUTORY
Interlocutory Report ........................................................................................................ PMF 550/ISBA P302
Request for Accounting ................................................................................................. PMF 551

CLOSING
Final Report ...................................................................................................................... PMF 601
Order Approving Final Report [and Discharging Personal Representative] ........... PMF 602
Waiver of Notice, Waiver of Accounting and Receipt ........................................... PMF 603/ISBA P230
Supplement to Final Report .......................................................................................... PMF 603A
Order Approving Supplement to Final Report & Discharging Personal Representative

EXTENDING TIME TO CLOSE ESTATE
Application for Extension of Time to Close Estate Pursuant to .................................. PMF 604
Iowa Code §633.473
Notice of Hearing..................................................................................................................PMF 605
Consent to Extension of Time to Close Estate & Waiver of Notice..........................PMF 606
Order Fixing Time and Place of Hearing on Extension of Time..............................PMF 209
Order Granting Extension of Time to Close Estate .......................................................PMF 607

ANCILLARY

Application for Probate of Foreign Probated Will and Appointment of Personal Representative..................................................................................................................PMF 701
Order Admitting Foreign Probated Will to Probate and Appointing Personal Representative ..........................................................................................................................PMF 702

SMALL ESTATES/NO ADMINISTRATION

Affidavit for Distribution of Property...........................................................................PMF 800/ISBA P303
Affidavit for Distribution of Property and Agreement to Protect Financial Institution from Liability..........................................................................................................................PMF 800A
Petition for Probate of Will Without Present Administration..........................PMF 801/ISBA P204
Order Admitting Will to Probate Without Present Administration .............PMF 802/ISBA P208
Notice of Proof of Will Without Present Administration ..................................PMF 803/ISBA P226
Petition for Small Estate Administration ................................................................PMF 804/ISBA P206
Small Estate Administration Order Appointing Administrator or Executor .................................................PMF 805/ISBA P209
Closing Statement for Small Estate ..........................................................PMF 805A/ISBA P360
Order Closing Small Estate and Discharging Personal Representative..................PMF805B
Notice of Filing Closing Statement..............................................................................PMF 805C
Affidavit of Mailing Notice of Filing Closing Statement........................................PMF 805D
Affidavit of Death -- Intestate (in re Transfer of a Motor vehicle) ......................PMF 806
Affidavit of Death -- Testate (in re Transfer of a Motor vehicle) .......................PMF 807
MISCELLANEOUS

Verification (Individual) ................................................................. PMF 901
Verification (Corporation) ............................................................... PMF 902
Acknowledgment (Individual) ......................................................... PMF 903
Acknowledgment (Corporate) ......................................................... PMF 904
Acknowledgment (Individual Fiduciary) ......................................... PMF 905/ISBA 186
Acknowledgment (Corporate Fiduciary) ......................................... PMF 906/PMF 190/PMF 331
Affidavit of Domicile......................................................................... PMF 907
Stock Power .................................................................................... PMF 908
Affidavit of Convenience................................................................. PMF 909

For Trust Forms, See Chapter 8
OPENING
IN THE IOWA DISTRICT COURT FOR _________________________ COUNTY

IN THE MATTER ) Probate No.

OF THE ESTATE OF )

____________________________________ ,

PETITION FOR PROBATE OF WILL AND APPOINTMENT OF EXECUTOR

Deceased.

[OPTIONAL IN LIEU OF CERTIFICATION AT END:]

STATE OF IOWA, COUNTY OF _________________________ ss.

The undersigned being first duly sworn (or affirmed) states:

1. The above named decedent ("decedent") died on ________________ then domiciled in and a resident of [the above County] [____________________ (county, state)] and at the time of death, owned property in the above County, subject to administration.

2. Decedent made and executed an instrument designated as a Last Will and Testament ("Will"), dated ___________________________ [Designate Codicil(s), if any, with date(s)] which is being filed with this Petition.

3. The undersigned petitions that the above instrument(s) be admitted to probate in this Court.

4. [OPTION 1] ____________________________________________ whose address is _____________________________ , is nominated in the [Will/Codicil] as executor and is qualified to act.

OR

[OPTION 2] The person nominated in the [Will/Codicil] is not proposed as executor because [state reasons] __________________________. However, __________________________ whose address is __________________________ is qualified to act as executor.

5. [OPTION 1] No Bond is required by the terms of the Will.
[OPTION 2] The estimated value of the personal property of the estate plus the estimated gross annual income of the estate during the period of administration is $_________.

OR

[OPTION 3] The distributees have waived in writing the requirement that a bond be filed.

6. The statements made in this Petition are true to the personal knowledge and belief of the undersigned.

WHEREFORE, the undersigned petitions the Court to admit the Will [and Codicil(s)] to probate, to appoint the executor for the estate and to enter appropriate orders.

[OPTIONAL IN LIEU OF NOTARIZATION] I certify under penalty of perjury and pursuant to the laws of the State of Iowa that the preceding is true and correct.

________________________________
__________________________ , Petitioner
__________________________ (Address)
__________________________ (Address)

[OPTIONAL IN LIEU OF CERTIFICATION]

Signed and sworn to (or affirmed) before me this _____ day of ___________________, 20______.

____________________________________
Notary Public
COMMENTS

1. See §633.290 et. seq. for more information regarding probate petitions.

2. See §633.63(1) as amended in 2010 regarding qualifications for executors.

3. See §633.169 et. seq. for more information regarding bonds, amounts of bonds, and the waiver of bonds.

4. Bond is required if an attorney acts as a personal representative unless there is a close family relationship. See Supreme Court Rule 39.13.

5. No Bond is required if a bank or trust company serves as personal representative. See §633.172. §§633.172 and 173 deal with waiver of bond. §§633.170 and 633.176 deal with the amount of bond.

6. §633.290 requires that a petition to admit a will to probate must be verified. But §633.35 authorizes certification in lieu of notarization.