

Wills Bar Practice Exam (Sample)

Study Guide



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Questions

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- 1. What legal principle governs the distribution of assets when a will is invalid?**
 - A. Probate laws**
 - B. Intestacy laws**
 - C. Statutory provisions**
 - D. Distribution agreements**
- 2. If a killer does not forfeit their share in joint property, what do they lose?**
 - A. Their right to be considered a beneficiary**
 - B. Their right of survivorship in the joint property**
 - C. Their claim to insurance proceeds**
 - D. Their right to contest the will**
- 3. According to the Uniform Simultaneous Death Act, what happens if the order of death cannot be established?**
 - A. All property is divided equally**
 - B. Each decedent's property is treated as if they survived each other**
 - C. The state takes all property**
 - D. The property is auctioned off**
- 4. What type of arrangement allows a bank account to pass to a designated person upon the owner's death?**
 - A. Joint tenancy**
 - B. Payable on death designations**
 - C. Life estate arrangements**
 - D. Totten trusts**
- 5. Which distribution method creates separate shares for alive children and deceased children with descendants?**
 - A. Per capita at generation**
 - B. Per stirpes**
 - C. Per capita with representation**
 - D. Equal share division**

- 6. What is necessary for a will to be considered valid in most jurisdictions?**
- A. Notarization only**
 - B. Testator's signature and witnesses**
 - C. Joint signatures from beneficiaries**
 - D. Approval by a lawyer**
- 7. What is "dual capacity" in estate planning?**
- A. Serving as a witness and executor of a will**
 - B. Being a beneficiary without any obligations**
 - C. Serving as both executor and beneficiary of a will**
 - D. Managing an estate after the owner's death**
- 8. Which method historically involved burying personal belongings with the deceased?**
- A. Inter vivos trusts**
 - B. Intestate succession**
 - C. Bury with decedent**
 - D. Wills**
- 9. Which type of will is written by the testator in their own handwriting?**
- A. Joint Will**
 - B. Holographic Will**
 - C. Attested Will**
 - D. Oral Will**
- 10. What does a right of survivorship imply in a joint tenancy?**
- A. Ownership reverts to the state upon death**
 - B. The surviving tenant automatically receives the deceased's share**
 - C. All tenants must agree to sell the property**
 - D. Ownership can be contested by heirs**

Answers

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1. B
2. B
3. B
4. B
5. B
6. B
7. C
8. C
9. B
10. B

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Explanations

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1. What legal principle governs the distribution of assets when a will is invalid?

- A. Probate laws**
- B. Intestacy laws**
- C. Statutory provisions**
- D. Distribution agreements**

When a will is deemed invalid, the principle that governs the distribution of assets is intestacy laws. These laws apply in situations where a decedent dies without leaving a valid will. Intestacy laws outline how the deceased's assets will be distributed among surviving heirs, typically prioritizing relatives such as spouses, children, and parents according to a set hierarchy established by state law. The application of intestacy laws ensures that the deceased's estate is handled in a manner that reflects the presumed intentions of the deceased regarding familial relationships, despite the absence of a valid will. Each state has its specific rules and regulations governing the distribution of estates under these circumstances. Other options, while related to estate law, do not directly address the scenario of asset distribution when a will is invalid. Probate laws deal with the process of validating and executing a will, whereas statutory provisions may provide general rules but don't specifically address cases of intestacy. Distribution agreements are typically arrangements made by individuals regarding the allocation of their assets and are not a governing principle in intestacy situations.

2. If a killer does not forfeit their share in joint property, what do they lose?

- A. Their right to be considered a beneficiary**
- B. Their right of survivorship in the joint property**
- C. Their claim to insurance proceeds**
- D. Their right to contest the will**

A individual who has killed another person and holds joint property with that person typically loses the right of survivorship in that property. This principle is grounded in the notion that the law should not allow a wrongdoer to benefit from their misconduct. In many jurisdictions, when a joint owner kills another joint owner, they are typically deemed to have forfeited their right to the property that would have otherwise passed to them through survivorship. In contrast, while the killer may still have some rights concerning joint property, they do not get to benefit from it in the same way post-incident. For example, they may still retain some rights or interests in the property but cannot lay claim to it through the right of survivorship because that would unjustly enrich them. Thus, by effectively eliminating this right, the legal system aims to prevent a murderer from profiting from their crime. The other options relate to different aspects of inheritance or rights that do not specifically address the forfeiture of the right of survivorship in joint property. Understanding these nuances helps clarify the implications of wrongful acts concerning estate and property law.

3. According to the Uniform Simultaneous Death Act, what happens if the order of death cannot be established?

A. All property is divided equally

B. Each decedent's property is treated as if they survived each other

C. The state takes all property

D. The property is auctioned off

Under the Uniform Simultaneous Death Act, if the order of death between individuals who die under circumstances where it is uncertain who died first, the legal treatment of their estates is such that each decedent's property is treated as if they survived the other. This means that for purposes of transferring property to heirs or beneficiaries, the law essentially treats each person as having outlived the other. This provision helps to simplify the administration of estates when simultaneous deaths occur, ensuring that neither party is unjustly enriched by inheriting property that would have passed to the other had the order of death been clear. It aims to avoid complicated disputes over inheritance and potential claims against each other's estates. This treatment aligns with the principles of fairness and prevents uncertainty from undermining the distribution of estates. In contrast, the other choices propose solutions that do not align with the Act's intentions or stipulations. For instance, dividing property equally may not reflect the rightful succession intended by the decedents' wishes or applicable laws. The state taking all property doesn't address the complexities of intestacy or the wishes of the deceased. Auctioning off the property is not a customary response to simultaneous deaths and would complicate the estates' distributions. Thus, the accurate interpretation according to

4. What type of arrangement allows a bank account to pass to a designated person upon the owner's death?

A. Joint tenancy

B. Payable on death designations

C. Life estate arrangements

D. Totten trusts

The correct answer is the arrangement that utilizes pay-on-death designations. This type of designation allows the account holder to specify a beneficiary who will receive the funds directly upon the owner's death, bypassing the probate process. This means that when the owner passes away, the designated person automatically receives the money in the account without the need for legal proceedings to transfer ownership. Payable on death designations are straightforward and often simpler than joint accounts, as the original owner remains the sole account holder and maintains full control during their lifetime. This aspect preserves the benefits of ownership and ensures that the funds directly go to the chosen individual without being tied up in probate. Other arrangements mentioned may serve different purposes or operate under different mechanisms. For example, joint tenancy involves co-ownership and rights of survivorship, while life estate arrangements pertain to real property and the rights of individuals during their lifetime. Totten trusts, on the other hand, are essentially a type of bank account trust that allows for a payable on death benefit but requires specific legal setup, which makes them more complex than simple payable on death designations.

5. Which distribution method creates separate shares for alive children and deceased children with descendants?

- A. Per capita at generation**
- B. Per stirpes**
- C. Per capita with representation**
- D. Equal share division**

The distribution method known as per stirpes effectively creates separate shares for living children and for deceased children who have descendants. This method focuses on the lineage of each child, ensuring that if a child predeceases the decedent, their share of the inheritance is divided among their own descendants. For example, if a decedent had three children and one of those children had already passed away leaving two children of their own, the inheritance would be divided into three equal shares—one for each living child and one for the deceased child's descendants. This practice maintains the intended inheritance line within families, providing for both living and deceased children while respecting the wishes of the decedent to support their lineage. This method is distinctly different from other options like "per capita at generation," which would not differentiate between living and deceased children's shares in the way per stirpes does. Similarly, "per capita with representation" allows for the distribution to occur at the same generation but does not create separate shares effectively for deceased children with their descendants. "Equal share division" does not address the lineage issue at all, simply giving each heir an equal portion without consideration for those who have passed away or their descendants. Thus, per stirpes is the correct choice for this scenario.

6. What is necessary for a will to be considered valid in most jurisdictions?

- A. Notarization only**
- B. Testator's signature and witnesses**
- C. Joint signatures from beneficiaries**
- D. Approval by a lawyer**

For a will to be considered valid in most jurisdictions, it is essential that the testator, who is the person creating the will, signs the document in the presence of witnesses, who must also sign the will. This process helps ensure that the testator has the necessary mental capacity to create a will and that they are doing so without undue influence. The requirement for witnesses serves a dual purpose: it provides assurance that the will was created and executed properly, and it helps prevent fraud by verifying the identity of the testator at the time of signing. Other options fall short of the legal requirements for will validity. Notarization, while helpful in some contexts, does not replace the need for witnesses in many jurisdictions. Joint signatures from beneficiaries are not typically required and could even complicate matters if interpreted as joint ownership of the will. Additionally, while a lawyer can provide valuable assistance in drafting a will and ensuring its compliance with local laws, the approval of a lawyer is not necessary for the will to be valid. Therefore, the correct answer emphasizes the importance of the testator's signature and the presence of witnesses to uphold the legitimacy of the will.

7. What is "dual capacity" in estate planning?

- A. Serving as a witness and executor of a will**
- B. Being a beneficiary without any obligations**
- C. Serving as both executor and beneficiary of a will**
- D. Managing an estate after the owner's death**

Dual capacity in estate planning refers to the situation where an individual serves in two different roles regarding a will or an estate. Specifically, when someone acts as both the executor of a will and a beneficiary, they are in a position of dual capacity. The executor is responsible for managing the estate, ensuring that debts are paid and that assets are distributed according to the terms of the will. At the same time, being a beneficiary means that this individual is also entitled to receive a portion of the estate's assets. This dual role can create complex dynamics, especially in terms of potential conflicts of interest, as the executor must act impartially on behalf of all beneficiaries while also having a personal stake in the estate's outcome. Other choices do not accurately describe dual capacity. Serving as a witness and executor does not involve the same intersection of interests and responsibilities. Being a beneficiary without obligations does not encapsulate the concept of dual capacity, as it does not include the executory duties. Lastly, managing an estate after the owner's death pertains more broadly to administration rather than indicating dual roles within that process. This clarity on dual capacity helps to understand the potential implications and responsibilities that come with holding multiple roles in estate administration.

8. Which method historically involved burying personal belongings with the deceased?

- A. Inter vivos trusts**
- B. Intestate succession**
- C. Bury with decedent**
- D. Wills**

The method that historically involved burying personal belongings with the deceased is indeed related to the practice of interring items alongside the body, a tradition rooted in various cultural and historical contexts. This practice, often referred to as being buried with the decedent, stems from ancient beliefs in the afterlife, where it was thought that the deceased would need these items in the next world. In many cultures, especially in ancient Egypt or among some Indigenous peoples, personal belongings such as jewelry, tools, and other cherished items were included in burial sites to accompany the deceased. This act symbolized a final tribute to the individual's life and status, providing them with comforts or necessities in the afterlife. The other options do not pertain to the act of burying possessions with someone who has passed. Inter vivos trusts are arrangements made during a person's lifetime to manage and distribute assets, intestate succession refers to the legal distribution of an estate when someone dies without a will, and wills are legal documents that express a person's wishes regarding the distribution of their property after death but do not involve the physical act of burial with belongings. Thus, the practice of burying items with the deceased serves as a unique and culturally significant method linked to ancient burial rites.

9. Which type of will is written by the testator in their own handwriting?

A. Joint Will

B. Holographic Will

C. Attested Will

D. Oral Will

A holographic will is a type of will that is entirely written, dated, and signed in the handwriting of the testator. The defining feature of a holographic will is that it does not require witnesses for it to be valid in many jurisdictions, as long as the testator's intent is clear through their handwriting. This type of will is particularly useful for individuals who may want to make a quick amendment or create a will in a situation where formalities may be challenging. In contrast, a joint will is typically executed by two or more individuals who intend to dispose of their joint property and may not be handwritten. An attested will usually requires the presence and signatures of witnesses, which is not a characteristic of a holographic will. An oral will, although valid in some jurisdictions, is not written and relies on verbal declarations made by the decedent. Thus, when it comes to the characteristic of being handwritten by the testator, the correct answer clearly aligns with the definition and requirements of a holographic will.

10. What does a right of survivorship imply in a joint tenancy?

A. Ownership reverts to the state upon death

B. The surviving tenant automatically receives the deceased's share

C. All tenants must agree to sell the property

D. Ownership can be contested by heirs

In a joint tenancy, a right of survivorship signifies that when one tenant passes away, the surviving tenant automatically receives the deceased tenant's share of the property. This legal arrangement ensures that the surviving tenant immediately inherits the entire property without the need for probate or other legal processes. This characteristic of joint tenancy distinguishes it from other forms of ownership, such as tenants in common, where the deceased's share would pass to their heirs rather than to the remaining co-owners. The other options do not accurately reflect the nature of joint tenancy. For instance, ownership reverting to the state upon death pertains to escheat laws but does not relate to joint tenancy. The requirement that all tenants must agree to sell the property is relevant to many forms of property ownership, but it does not address the right of survivorship aspect. Additionally, claiming ownership can be contested by heirs is not applicable in joint tenancies with a right of survivorship because the property does not become part of the deceased tenant's estate. Thus, the right of survivorship provides clear, immediate transfer of property rights to surviving joint tenants.