



## Living Will

### Proactive planning

A living will is an important legal document. It enables individuals to define in advance who they want to manage their personal and financial affairs if they are no longer able to do so themselves due to illness, accident, or age-related limitations.

### Meaning and purpose

The living will serves to govern situations in which a person becomes incapable of judgment. It allows you to decide by yourself and autonomously who you would like to be responsible for your personal care or manage your assets.

A living will creates legal certainty for the affected individuals and their relatives. Furthermore, it prevents potential conflicts or uncertainties about care and asset management.

## Key aspects of a living will

- **Personal care and management of assets:** The living will can include instructions regarding personal care and/or management of assets. Personal care refers to non-financial aspects such as place of residence, medical care, and daily support needs. Asset management covers managing the individual's finances, handling tax matters, and representation in financial matters.
- **Selection of the appointee:** The living will specifies the appointed person, who may be a natural person or a legal entity, provided they are fully legally competent. It is essential that the appointed person is clearly identified – ideally including their personal details. Different individuals can be appointed for different areas of responsibility.
- **Structure and form:** The living will must be handwritten in full by the person it concerns, including date and signature, or it must be certified by a notary. If written by hand, the entire document must be in the person's handwriting.
- **Effectiveness:** A living will becomes effective once the Child and Adult Protection Authority (KESB) in charge determines the individual's incapacity and reviews the document for formal validity and the suitability of the appointed person.

## Legal basis and ordinance

The Ordinance on the Management of Assets in the Context of a Guardianship or Trusteeship (VBVV, by its German acronym)<sup>1</sup> establishes a framework for the management of assets by a representative. It mandates that assets be invested securely and profitably, and that investment risks be kept to a minimum through diversification<sup>2</sup>.

### Article 6 – Investments that secure the customary standard of living (extract)

- a** At cantonal banks with unlimited state guarantee: unlimited cash deposits, bonds, fixed deposits
- b** At other banks and Postfinance: cash deposits, bonds, fixed deposits up to a maximum of CHF 100,000.00 per institution.
- c** Fixed-income securities of the federal government and mortgage bonds of Swiss central mortgage bond institutions.
- d** Properties (self-used/stable in value) – requires approval of the Child and Adult Protection Authority
- e** Collateral-secured claims (collateral with stable value) – requires approval of the Child and Adult Protection Authority
- f** Deposits in occupational pension institutions

<sup>1</sup> Regulates the investment and safekeeping of assets managed by a representative within the scope of guardianship or custodianship.

<sup>2</sup> Distribution of capital across various financial products and kinds of investments.

### Article 7 – Investment opportunities that go beyond Article 6

Investments that cover further needs and require approval of the Child and Adult Protection Authority (paragraph 1, extract)

- a** CHF-denominated bonds by companies of sound creditworthiness
- b** CHF-denominated stocks by companies of sound creditworthiness, maximum of 25% of total assets
- c** CHF-denominated funds with holdings in companies of sound creditworthiness, managed by Swiss banks
- d** CHF-denominated mixed investment funds holding a maximum of 25% equities and a maximum of 50% foreign companies, managed by Swiss banks
- e** Pillar 3a savings at banks, Postfinance or insurance companies
- f** Properties

### Particularly favorable financial circumstances (Art. 7, paragraph 3)

If the financial circumstances of the affected person are particularly favorable, the Swiss Child and Adult Protection Authority may approve farther-reaching investments.

## Conclusion

The living will is an essential tool for personal estate planning and offers you a means of self-determination regarding your future. It helps to prevent the imposition of state-ordered guardianship. By carefully drafting a living will, you can provide clarity in both care arrangements and asset management. The VBVV Ordinance ensures that asset management is conducted according to clear guidelines that safeguard the interests of the individual concerned.



## smzh-Tipp



**Thomas Kaufmann**  
Chairman of the Board

Thomas Kaufmann emphasizes:



**Do not put off the topic of a living will. Rely on our experts and ensure that your family situation plays a decisive role in shaping your directive. Together, we will develop a deep understanding of your family's individual needs and ensure that the living will is precisely tailored to your wishes and requirements.**



## smzh for you

Our experts look forward to, together with you, drawing up a carefully worded living will and an advance care directive that is in line with your wishes.

- **Individual advice:** Support in creating a living will and advance care directive, aligned with your situation in life.
- **Legal and medical expertise:** Our experts provide comprehensive advice when it comes to legal and medical matters.
- **Ensuring implementable solutions:** We help you draw up your documents properly, to store them, and make them accessible to your persons of trust.
- **Regular updates:** We support you in assessing and adjusting your precautionary documents to new life situations.



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