

## Overview - For Petitioner Before Being Appointed By The Court

### **General Information:**

One of the first things a Petitioner, seeking to be appointed as an Executor or Administrator, must do is determine if there are any assets owned by the decedent. If any assets are jointly held with rights of survivorship, they do not need to be probated.

“Decedent” is the term used to refer to the person who died.

If the decedent owned any assets, only in his/her name or in common with others, (but not as joint owners with rights of survivorship) then a probate estate administration must be opened to dispose of the asset(s).

### **Other Details:**

By filing a Petition for Estate Administration, the petitioner is asking to be appointed as the estate Executor or Administrator.

An Executor/Administrator is responsible for ensuring that the debts and assets of the estate are managed and distributed in accordance with New Hampshire law and the decedent’s wishes if expressed in a will, if there is a will.

An Executor is a person named by a decedent in a will to administer an estate. When a decedent does not have a will, an Administrator is the person who is approved by the Circuit Court, to administer an estate. The roles of the Executor and Administrator are the same.

If the Executor/Administrator files the Petition for Estate Administration and was incorrect about the existence of a will when filing, an Amended Petition for Estate Administration would need to be filed.

The Executor/Administrator must exercise the highest duty of good faith and candor in carrying out the administration of the decedent’s estate.

It is the responsibility of the Executor/Administrator to see that the assets of the decedent’s estate are collected and its debts paid, if sufficient funds exist in the estate. The assets must be managed while awaiting approval to distribute them and estate funds must be kept separate from any other funds by opening an account in the name of the estate and depositing all estate funds and paying all estate bills from that account.

Within 90 days of appointment the Executor/Administrator must file an Inventory of Fiduciary containing a list of estate assets and their estimated value. The Executor/Administrator must inform all persons with any legal interest in the estate, including creditors and potential heirs, of any matters that might affect their interests.

If the Executor/Administrator later discovers additional heirs or beneficiaries, the Executor/Administrator must let the court know by filing either a Persons or Entities to Inherit Under the Will form or, if there was not will, a Persons to Inherit Under Succession Laws If There Is No Will form.

If the estate is still open a year after appointment, the Executor/Administrator must file an Accounting of estate assets with the court. The Executor/Administrator must file an Accounting each year the estate is open.

An Executor/Administrator does not need to be an attorney. The Executor/Administrator should consult an attorney if complex issues arise. If attorney's fees are approved by the court, the fees can be paid out of the estate assets.

If an Executor/Administrator is unable or unwilling to serve, he or she may decline to serve by filing a Declination form and the Circuit Court Probate Division will appoint a substitute Executor or Administrator.

### **Other Helpful Resources:**

Form(s):

Petition for Estate Administration **(NHJB-2145-Pe)**

Inventory of Fiduciary **(NHJB- 2125-Pe)**

Executor's/Administrator's Accounting **(NHJB-2117-Pe)**

Persons or Entities to Inherit Under the Will **(NHJB-2150-Pe)**

Persons to Inherit Under Succession Laws If There Is No Will **(NHJB-2151-Pe)**

Declination **(NHJB-2123-Pe)**

Administering an Estate Booklet

Glossary of Terms

Pamphlet:

Pamphlet – How Can I get an Official Copy of a Death Certificate?

Pamphlet – Wills – Frequently Asked Questions

Pamphlet – What is Waiver of Administration?

Pamphlet – Have you considered Summary Administration?

Checklist:

Checklist - Opening an Estate With a Will (#009e)

Checklist – Opening an Estate Without a Will (#010e)

### **For Further Information:**

If you have questions, please contact the Information Center at 1-855-212-1234.