

Probate and Succession Planning (2024)
Practice paper 2 for second contact session**Question 1**

Bruce Parker is 56 years old, and lives with his good friend Wayne Peters, who is 60 years old at 12 Marina Boulevard #28-01 Singapore 018982. Bruce is estranged from his wife Selina Kyle who is 53 years old and they have been living apart for about 15 years. Bruce and Selina have two children, namely Barry Parker and Allen Parker who are 22 and 18 years old respectively. Though Barry and Allen live with Selina, they have continued to have a close relationship with Bruce who helps to financially support them.

Earlier this year, Wayne started noticing that Bruce was getting increasingly forgetful, was often misplacing his keys and wallet, and often struggled to keep up with conversations as he would lose track of the conversation mid-way. Concerned about Bruce's well-being, Wayne persuaded Bruce to go for a medical check where Bruce was diagnosed with Alzheimer's.

Unfortunately Bruce's condition has been rapidly deteriorating. Meanwhile, he has had to resign from his job, his medical bills have been piling up and he is in arrears in the monthly instalments for the personal loan Bruce took from POSB Bank (Loan Reference No: 20167391) to help Barry and Allen with their university tuition fees.

As much as Wayne would like to financially help his friend, his income as a full-time pre-school teacher is insufficient. Moreover, following a series of recent mishaps and accidents resulting from Bruce's deteriorating memory, Wayne feels he is not able to provide Bruce the care he needs.

In the circumstances, Wayne thinks it may be best to either hire a full-time domestic helper, or move Bruce to a care facility. However, Wayne is unable to afford either option on his present income. To ease the financial strain, Wayne thinks it may be best to sell Bruce's 5 room HDB flat at Blk 123 Memory Lane 1, #01-01, Singapore 102345 that is presently unoccupied. Wayne intends to use the sale proceeds to pay off Bruce's personal loan, and thereafter place the balance proceeds in Bruce's POSB bank account (A/c No. 089-12345-6) with a view to using the funds in the account to pay for Bruce's medical bills and other expenses.

- (a) Advise Wayne as to the considerations if he were to apply to be appointed as Bruce's deputy.
- (b) Assuming that Wayne wishes to be appointed as the deputy in respect of Bruce's personal welfare and property and affairs, state the steps that would have to be taken to obtain the requisite Court order.
- (c) Since Wayne can be appointed as Bruce's deputy to make decisions on Bruce's behalf, Wayne is thinking of implementing various of Bruce's wishes:

- i. Bruce had always wanted to divorce Selina and Wayne thinks this is as good a time as any. After all, Bruce and Selina have been separated for about 15 years;
- ii. Bruce had always wanted to make a CPF nomination for his two sons. He did not want Selina to have any share of his CPF monies; and
- iii. When Bruce found out that he had Alzheimer's, he was very affected and wanted to make a donation towards the research for a cure for Alzheimer's.

Advise if these can be included in the application to court for appointment of deputy.

- (d) The recent turn of events has made Wayne realise that he ought to take preparatory measures to safeguard his own interests in the event that he loses his mental capacity. Wayne would accordingly like to execute a Lasting Power of Attorney ("LPA"). Wayne approached you as his brother-in-law and trainee in a law firm for assistance.

Please advise Wayne as to what you can assist with, in particular whether you can be the certificate issuer and if you cannot, whether you can bring it to your partner for your partners' execution as a certificate issuer after Wayne has signed the LPA in front of you.

Question 2

Geraldine approached her friend Patrick to be the donee of her lasting power of attorney. Patrick offered to ask his brother-in-law Bill to be the certificate issuer for this lasting power of attorney. Bill can be the certificate issuer because:

- A. He is an advocate and solicitor of the Supreme Court, but has left practice for more than 5 years.
- B. He is related to the donee Patrick by marriage and stay next door to Patrick.
- C. He and Patrick both stay with their spouses' parents.
- D. Geraldine and Bill are business partners.

Question 3

Victoria has been appointed the donee by her husband Robert in his lasting power of attorney. Victoria can:

- A. Make gifts to herself as the LPA expressly authorised gifting with no limits as to the value of the gifts.
- B. Settle Robert's assets into a trust to better take care of him, in case something untoward should happen to Victoria.
- C. Acquire a new insurance policy for Robert and nominate their children as beneficiaries to that policy under section 133(2) of the Insurance Act.
- D. None of the above

Question 4

Victor and Janet are married. Victor has however left Janet about 10 years ago and has been residing with his mistress Alice. Janet has been taking care of her two minor children with Victor. Victor has an aneurysm and has been in a coma for about 3 months. It is not clear whether he will recover. In an application for appointment of deputy, which of the following statements are correct?

- A. As Victor and Janet's two children are minors, they cannot be deputies.
- B. Alice is a "relevant person" and needs to be informed of the application to appoint a deputy for Victor.
- C. Janet is a "relevant person" and can make an application for the appointment of Victor's deputy.
- D. All of the above are correct.