

EXAMINERS' ANALYSIS OF QUESTION NO. 3

Estates in Michigan are statutorily governed by the Estates and Protected Individuals Code ("EPIC"), MCL 700.1101 et al.

I. **Angel's Estate:** Because Angel passed away without a will, she is deemed to have died intestate, and the statutory rules of intestate succession apply to the distribution of her estate. MCL 700.2101(1). Since Angel had no surviving spouse and the only living heir at the time of her death was her daughter Hope, the intestate succession rules under MCL 700.2103 dictate that Hope is entitled to Angel's entire estate. Hope is entitled to the estate even though she failed to survive her mother by 120 hours and even though intestate succession rules generally provide that "[a]n individual who fails to survive the decedent by 120 hours is considered to have predeceased the decedent for purposes of . . . intestate succession, and the decedent's heirs are determined accordingly." MCL 700.2104. Hope takes the entire estate because this 120-hour predeceasing decedent law "does not apply if its application would result in a taking of the intestate estate by the state under section 2105." MCL 700.2105 provides that if there is no "taker" under the intestate succession provisions, "the intestate estate passes to this state." If Hope was deemed to have predeceased Angel, the state of Michigan would be entitled to the estate proceeds because there are no other remaining heirs under the intestate succession laws (i.e. no other children, parent, grandparent or siblings) to whom Angel's estate could pass. The law protects against such an outcome, as explained above. Therefore, Angel's estate passes entirely to Hope despite Hope not surviving Angel by 120 hours.

II. **Hope's Estate:** The March 1, 2014 writing that Hope signed qualifies as a valid holographic will. All valid wills require that the testator be at least 18 years old and have "sufficient mental capacity." MCL 700.2501(1). Those initial requirements are satisfied in this instance since at the time she made the writing, Hope was 60 years of age and in good physical and mental health. A holographic will requires no witnesses and is considered valid "if it is dated, and if the testator's signature and the document's material portions are in the testator's handwriting." MCL 700.2502(2). Hope's non-witnessed writing constitutes a valid holographic will because it was dated, signed by her, and in her own handwriting. As such, Hope's entire

estate, which would also now include Angel's assets, would be distributed to her dear friend Joan according to Hope's will.