

# Philadelphia VIP

## Probate/Homeownership Quick Start Guide

This quick start guide is intended as a resource for volunteers working with VIP Clients on probate/homeownership matters.

**This guide references many webpages and web resources. Please open this guide online at [www.phillyvip.org/probate-quickstart](http://www.phillyvip.org/probate-quickstart).**

This is an overview of the process. In-depth guidance on each step of the process can be found in the VIP Probate Training Manual in [VIP's Resource Library](#). All resources referenced below can also be found in the Library.

Additionally, VIP Homeownership team staff members are available to assist any time:

- Find any staff member here: [Staff Directory](#)
- P. Michael Jones – Senior Staff Attorney (Homeownership) – [mjones@phillyvip.org](mailto:mjones@phillyvip.org)
- Erin Agnew – Staff Attorney (Homeownership) – [eagnew@phillyvip.org](mailto:eagnew@phillyvip.org)

# How to Complete a VIP Pro Bono Probate Case

1. **Complete Representation Agreement**, summarizing the work you will complete with your client. A Probate case representation agreement summary might read: Open the estate of [decedent], administer the estate, and draft a deed conveying title to property to [client]."
  - a. Sample representation agreement [here](#).
  - b. Send a signed representation agreement to your VIP Staff contact, to ensure your work is covered by VIP's malpractice insurance.

2. **Ensure you have all necessary records.** VIP carefully prepares files to include complete records; however, it is beneficial to confirm with your client that they have:

- A will, if decedent died testate
- An original or certified copy of the decedent's death certificate
- A valid and current photo ID

If your client does not have one of these original records, please reference pages 17 – 22 of the Philadelphia VIP Probate Training Manual.

3. Determine if you need to **notify the PA Department of Human Services** that the decedent's estate is being raised. The Pennsylvania Department of Human Services (DHS) provides free medical assistance (MA) to low-income individuals who are financially needy and/or who cannot pay for the cost of long-term care in the home or a nursing home. However, when a recipient of MA dies, the federal government mandates that DHS file a claim against his or her probate estate to recover the value of the MA provided for long-term care in the home or a nursing home only.
  - a. [VIP's DHS Estate Recovery Guide](#) provides an in-depth explanation of the estate recovery claim process.
  - b. If your client believes that there may be a DHS estate recovery claim for care provided to decedent, send VIP's template estate recovery claim letter on the Volunteer resource library, titled "[Probate: Notice to DHS that Estate is Subject to Recovery](#)"
    - i. If DHS does not respond within 45 days, any right it may have to place a lien on the decedent's estate property is deemed waived. You can proceed with no risk to the estate.
    - ii. If DHS responds with a statement of claim it holds against the decedent's estate, you will need to take further action, to apply for a hardship waiver.
  - c. You can find the [undue hardship waiver request form here](#).

- d. More information about the DHS hardship waiver claim is on pages 24 – 28 of the Probate Training Manual.

4. **To begin the probate process**, you will file an online petition using the [Register of Wills Attorney Online Filing system](#).
- a. Log in using the same username, password, and ID as your login credentials for the First Judicial District E-Filing system.
  - b. From the left-hand side menu, select “New Probate.”
  - c. Enter the Decedent’s information.
  - d. Do not select “Litigation Purposes (No Other Assets)” for VIP Probate cases.
  - e. Select the correct type of letters requested. This will change based on your client’s claim to serve as the estate administrator.

Common types of letters for VIP clients are:

- Letters of Administration: if the decedent died without a will and client is opening the estate with renunciations from family members, or following a successful Petition for Citation.
  - Letters Testamentary: if the decedent died with a will naming client as executor of their will.
  - Letters of Administration c.t.a. (cum testamento annexo): if the decedent named an administrator in their will, who is no longer able to serve, and other heirs will sign renunciations in favor of client serving as administrator.
  - Letters of Administration d.b.n. (de bonis non): if the decedent’s estate has already been opened with someone else as administrator, and an alternate or successor is named in a will, Letters d.b.n will be issued to the named alternate.
  - Letters of Administration d.b.n.c.t.a.: if the decedent’s estate has been opened and the administrator can no longer serve, but no successor or alternate is named in a will, Letters d.b.n.c.t.a. will be issued to the person entitled to the residuary estate under the will.
- f. Complete the “Special Circumstances” section, if prompted. This section should explain why the type of letters you selected is requested. (i.e. “Renunciation of all living heirs of decedent are provided with the petition.”)

- g. Complete the Property Information:
  - i. All Personal Property: can be left blank, unless you specifically know of a vehicle, etc. that must be dealt with in the estate.
  - ii. Value of Real Estate in PA: fill in the home's current property value, from the Office of Property Assessment page provided in the case file.
  - iii. Real Estate Situated: enter the property address, on one line.
- h. Complete Parties in Interest: complete a new "party in interest" fillable section for each heir.
- i. For Letters of Administration: provide the names of all living heirs. These heirs should be entered as "renouncing parties";
  - i. Select "yes" in response to "Is the Party in Interest also an Heir?"; select the correct family relationship.
- j. For Letters Testamentary: provide the names of all heirs named in the will, even if they do not have a claim to real estate.
- k. Check the box to "electronically sign document" and proceed to "save and submit," when you have finished entering all information.

On your home page, you will see all active cases listed under "Probate Cases: filing history." The case will be listed as "pending" until your client swears the oath of administration and letters are issued to them, allowing them to open the estate.

- 5. Using the same information as you entered into the efilng system, **complete a pdf petition for probate and grant of letters.** On the "Oath of Personal Representative" page, complete the form but do not prompt your client to sign. They will sign at the Register of Wills' office after swearing the oath of administration. (If proceeding with virtual probate, they will sign after swearing the oath on Zoom.)

The current Petition is available through the Register of Wills' website and [here on VIP's Resource Library.](#)

6. Once you have an estimate of the probate fees, **complete a Tangled Title Fund disbursement request** to have the probate fee check prepared for your client when they swear their oath of administration. The current disbursement request form is available under “The Steps” on [the TTF “How to Apply” page](#).
  - l. You will estimate the probate filing fees on your PDF petition for probate. This will include the filing fee based on estate size, and additional costs for submitting renunciations.
  - m. The Register of Wills maintains a [current fee schedule here](#).
  - n. Submit your check request to the Tangled Title Fund Administrator by email: [tangledtitlefund@gmail.com](mailto:tangledtitlefund@gmail.com).
7. **If proceeding with virtual probate**, at this time, also follow the [Register of Wills’ Virtual Probate Procedure](#).
8. **Make a plan for your client to sign the oath of administration** with your client.
  - a. For virtual probate, follow the instructions in step 7.
  - b. For in-person probate, prepare client to appear at the Register of Wills’ office with all original documents:
    - i. Client will need to have a valid photo ID.
    - ii. All original documents will be given to the Register of Wills after the oath is administered.
    - iii. Be sure to have your TTF check in hand– the longer you wait to hand in the check, the longer it delays the Letters being granted.
    - iv. The grant of letters usually takes 10 days from the date the completed file is at the Register’s Office.
  - c. To schedule an in-person oath, you can call 215-686-6255 between 8a and 4:30p M-F, or email [ProbateAppt@Phila.gov](mailto:ProbateAppt@Phila.gov)
  - d. It is often faster to plan for your client to walk-in for their oath. Walk-in clients are seen in a first-come, first-served order M-F 8:45 am– 3:00 pm

9. Send the **notice of beneficial interest in an estate** to the necessary heirs.
  - a. If the decedent had a will, send the notice to:
    - Any person and/or entity named in the will as a beneficiary
    - Any person who would be an intestate heir if the will did not exist
    - The decedent's spouse and children
  - b. If the decedent did not have a will, send the notice to:
    - All intestate heirs
    - The decedent's spouse and children
  - c. PA Orphans Court maintains a [template notice of beneficial interest](#).
  - d. You do not have to effect formal service or do anything beyond mail this notice to surviving heirs.
10. **File a Certification of Notice to Heirs** with the Register of Wills to show that appropriate notice was given.
  - a. One certification can be filed, including all heirs.
  - b. No affidavit of service is required beyond the certification.
  - c. When filing, bring a second copy to have time stamped in the Register of Wills' office, for your records.
  - d. PA Orphans Court maintains a [template certificate of notice](#).
11. **Draft a deed** conveying the property to client.
  - a. Your case file will include the last recorded deed from which you can copy the legal property description.
  - b. [Select the best-fit deed template from the Volunteer Resource Library](#). Your VIP support person can help you select the best deed template.
  - c. [VIP's Deed Drafting training video](#) may be a good resource.
12. Once drafted, please have someone at VIP **review the draft deed** and confirm it is ready to execute.

**13. Complete the Philadelphia and Pennsylvania Transfer Tax Certificates.**

- a. [Pennsylvania Form](#)
- b. [Philadelphia Form](#)
- c. As of July 2023, the common level ratio factor is 1.00 for Philadelphia. The common level ratio factor is updated annually.
- d. If any transfer taxes will be due, complete a Tangled Title Fund disbursement request form for the transfer taxes (see step 6). These must be paid for the deed to be recorded.

**14. Execute the deed with your client.**

- a. All grantors and your client as the grantee must sign the deed before a notary.
- b. If they cannot be present to execute at the same time, each person can sign their own signature page separately and mail them to client. Once client has all signed pages, client can sign and the deed can be submitted for recording.
- c. VIP has notaries on staff who are available by appointment and can notarize deeds at no cost.

**15. Submit the deed and Transfer Tax certificates to VIP to be recorded.**

- a. VIP can record all deeds for free!
- b. Once the deed is successfully recorded, we will notify you and your client.
- c. Client can receive the original deed by certified mail or meeting in our office.

16. **Prepare the Inheritance Tax Return** and submit it with your client.

- a. VIP maintains an [inheritance tax return guide](#) which will help you to prepare your client's return.
- b. Use the [return for resident decedents](#).
- c. The most common schedules are:
  - [Schedule A: Real Estate](#)
  - [Schedule H: Deductions for Funeral Expenses and Administrative Costs](#)
  - [Schedule I: Deductions for Debts of Decedent](#)
  - [Schedule J: Beneficiaries](#)
- d. [Instructions for all schedules are located here](#).
- e. If your client has remaining Tangled Title Fund balances, you can now submit a TTF disbursement request for the Inheritance Taxes.

17. If any **interest or penalties** have accrued, please request that they be forgiven once your client has received a statement from the Department of Revenue confirming that the principal of taxes has been paid. [A template resource is available here](#).

18. **File a final estate inventory** with the Register of Wills.

- a. For many VIP clients, the only asset will be their home.
- b. Inventories must be signed by your client as the estate representative, cannot be signed by lawyer on their behalf.
- c. Pennsylvania Orphans' Court maintains a [template estate inventory here](#).

19. File a **status report** with the Register of Wills

- a. A status report closes the estate and ends volunteer's representation.
- b. File 2 copies to have one time-stamped for your records.
- c. Once filed, return all original records to client.
- d. Pennsylvania Orphans' Court maintains a [template status report here](#).

20. **Send a closing letter** and have a closing conversation with your client.

- a. [Template letters are available here](#). Please share the closing letter with VIP.