



Preparing your Will

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By Dorothy Hagel

Access to information is an important part of access to justice. People, who have information that they need are more likely to avoid legal problems altogether or prevent the problems they already have from becoming even bigger.

Making a will is no different. You need to have sufficient information to recognize the issues that your will should address. Making a will is an important process and should be approached with care because a will lets you make decisions that will be carried out after your death.

Some of these decisions can significantly affect lives of your loved ones; especially, if you are carrying for someone, who is your dependent, such a child or a disabled sibling. In Ontario, if a person dies without a will, the provincial succession laws will determine what happens to the deceased assets. When there is no one appointed to look after assets of an incapable person or a minor child, the Office of Public Guardian and Trustee may have to step in to administer the assets. In many cases this is a quite appropriate solution but this may not be how you would want your money to be administered.

Here are some points that need to be considered when making a will:

- Whom do you want to be in charge of settling your estate (estate trustee aka executor)? Do you want to appoint a replacement when your first choice is unable to do it?

- Whom do you want to receive your estate (beneficiaries)? Are there any items of jewellery or clothing that you would want to go to someone in particular?
- If your named beneficiaries die before you, whom do you want to benefit from your estate instead?
- Do you want to give any money to a charity? If so, how much?
- Are your children still minor? Do you need to appoint a guardian for your children? Should there be an ongoing support for them? Who is going to be a trustee to hold the money for these minor children? How long is the money supposed to be held?
- Do you have a business that you want to pass on to someone?
- Do you need to establish a trust and if so, who is going to be your trustee?
- Do you need a power of attorney for personal care? Do you need a power of attorney for property? Who is going to make decisions about your personal care or finances if you are incapacitated?

Canadian Bar Association (CBA) is offering Legal Health Checks to public on a number of topics, including making the will. The resources offered by CBA are free. To access the Legal Health Checks visit <http://www.cba.org/cba/equaljustice/resources/checklists.aspx>

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