



# Advance Planning

Wills, Powers of Attorney,  
Representation Agreements, and  
Joint Ownership

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For United Way - Healthy Aging CORE BC  
February 17, 2026



# Information Disclaimer

- This presentation provides information only, and should not be considered legal advice for any specific situation. The slides are ONLY for information.
- We do not take any responsibility if any person uses this information to apply to their specific situation.
- We recommend that individuals seek legal advice regarding their personal legal issue.

For personal questions, please email us at **info@seniorsfirstbc.ca** or call our Seniors Abuse & Info Line at **1-866-437-1940**

# Introduction to Seniors First BC

Information, legal advocacy, and support for older adults across BC with issues affecting their well-being.

- Seniors Abuse and Information Line (**SAIL**)
- Victim Services
- Public Education and Outreach
- Legal Programs



# Seniors Abuse and Information Line (SAIL)

- *A confidential information & referral helpline*
- *A safe place to speak about concerns of abuse or neglect*
- *The entry point to access Seniors First BC services*

**604-437-1940** or **1-866-437-1940** (toll-free)

Available 8am to 8pm weekdays, excluding holidays

Language interpretation available

[info@seniorsfirstbc.ca](mailto:info@seniorsfirstbc.ca)

# Victim Services

Provides the following supports to **older adults** who have been victims of abuse, family and/or sexual violence:



Safety  
planning



Liaison with  
justice system  
personnel



Assistance with  
Crime Victim  
Assistance Program  
applications



Information and  
referrals  
e.g. criminal  
justice system

# Public Education and Outreach

We raise awareness about key issues affecting older adults:



Presentations  
& Events



Publications,  
Newsletter



Digital Content  
**[www.seniorsfirstbc.ca](http://www.seniorsfirstbc.ca)**

# Navigating Home Care & Senior Housing: An Advocacy Guide



## Navigating Home Care and Senior Housing *An Advocacy Guide*

seniors  
first  
BC

Seniors Abuse & Information Line:  
1-866-437-1940  
[www.seniorsfirstbc.ca](http://www.seniorsfirstbc.ca)  
[info@seniorsFirstBC.ca](mailto:info@seniorsFirstBC.ca)

- Information about:
  - supports in the community
  - entering, living in, and leaving assisted living and long-term care
  - rights and resolving problems
  - resources

Access online at:

[www.seniorsfirstbc.ca/resources/publications](http://www.seniorsfirstbc.ca/resources/publications)

seniors first BC

# Legal Services

We assist **eligible older** adults with select legal issues through our Elder Law Clinic, Legal Advocacy Program, Advance Planning Clinics:



Legal  
information  
and referrals



Summary  
advice



Drafting of  
legal documents



Full  
representation

# Legal Services

Some of the legal issues we may assist with:



## Housing

(Residential tenancy, assisted living, long term care)



## Debt



## Gov. benefits

(Federal e.g. OAS/GIS  
Provincial e.g. SAFER)



## Financial exploitation



## Family law



## Guardianship



## Age discrimination



Wills, Power of Attorney,  
Representation  
Agreement



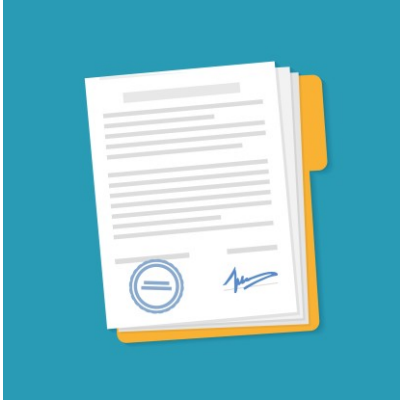
## Other elder abuse



## Criminal law



# Legal Services Eligibility Criteria



- **Age: 55+**
- **Eligibility is based on income and all assets**
  - Income maximum (gross): **\$45,000** for 1 person + **\$20,000** per additional household member
  - Assets under \$250,000
- *Eligibility in any case is determined by SFBC lawyers*
- Exceptions considered on a case-by-case basis
  
- Contact our SAIL Line for information and/or to arrange a consultation with our legal team.

*Please note: the wait time to receive a callback from our legal team could be up to 4 weeks. Callers should advise the SAIL intake worker if a situation is urgent (e.g. eviction).*

# Elder Law Clinic Locations

## **Vancouver:**

- Seniors First BC office (downtown)
- QMUNITY (2SLGBTQIA+)

**Surrey:** Newton Seniors Centre

**New Westminster:** Seniors' Services Society Office

## **Burnaby:**

- Burnaby Neighbourhood House South House
- VCH Deaf Well-Being Program(with ASL interpretation)



Call the Seniors Abuse & Information Line (SAIL) for information and to make an appointment.

# Advance Planning Clinics

Our staff lawyers and volunteer legal professionals can help eligible low-income older adults (55+) with drafting and executing:

- Wills
- Powers of Attorney
- Representation Agreements

Locations:

- **Fraser Valley:** Chilliwack
- **South Coast:** Sechelt
- **Vancouver Island:** Nanaimo
- **Northern BC:** Prince George, Williams Lake
- Other locations on an ad hoc basis, including **Haida Gwaii**

*Please contact SAIL for information 1-866-437-1940.*



# Learning Outline

1. What is Advance Planning?
2. Advance Planning Tools
  - Representation Agreements
  - Advance Directives
  - Power of Attorney
  - Joint Ownership/Joint Bank Accounts
  - Wills
3. Resources

# What is Advance Planning?



- **Incapacity Planning:** Helps ensure your loved ones can help you with your finances and healthcare when you need it.
  - **While you are alive** (incapacity planning):
    - Representation Agreement
    - Power of Attorney
    - Advance Directive
    - Joint Ownership
- **Estate Planning:** Helps ensure your wishes will be respected, reduces unnecessary expenses, and prevents disputes among family members.
  - **After you die** (estate planning):
    - Will
    - Joint Ownership/Beneficiary Designation

# What is Capacity?



Capable



Incapable

# Who Decides Whether Someone Has Mental Capacity to Make Decisions?



- An adult is presumed to have capacity

***However:***

- Someone can challenge your mental capacity
- Medical evidence and a court order can result in you losing control of your decision-making authority and finances

# Tool #1: Representation Agreements

- A written legal document signed by the “Adult”.
- Appoints one or more people (the “Representative” or "Joint/Alternate Representatives") to make health/personal care decisions on the Adult's behalf
- Adult must sign in front of witnesses, and Representative(s) must sign.
- Can be revoked as long as Adult is capable

## S.9 Representation Agreement (Health Care Only)

- Can include all major/minor healthcare and personal care decisions
- Can include day-to-day decisions
- Can give the representative certain additional powers
- Representative can refuse certain medical treatments
- Often combined with enduring POA



## S.7 Representation Agreement (Financial + health care)



- **Routine** management of financial affairs
- **Routine** management of legal affairs
- **Routine** minor and major health care decisions
- Is typically not accepted for moving into Long Term Care or Assisted Living facilities.

# Misuses of Representation Agreements



Despite legal duties, after incapacity:

❏ Representatives may consent to treatments that the Adult would not have wanted

❏ Representatives may unreasonably restrict visitors or social activities

# How to Choose a Representative

## Choose someone the Adult TRUSTS who:

- Understands and respects their values, wishes, and beliefs
- Can assist with making personal care and health care decisions on their behalf
- Is available locally to assist the Adult
- Knows about any medical treatments that the Adult wants or doesn't want



# Tool #2: Advance Directives



- Written instructions giving or refusing consent to health care treatment when health care is needed, but the adult is not capable of communicating their wishes otherwise

# Tool #3: Powers of Attorney



- A written legal document signed by the person (the “Adult”)
- Appoints one or more people (the “Attorney” or "Joint Attorneys") to make financial decisions on the Adult's behalf
- Adult and Attorney must sign (in front of witnesses)
- Can be revoked as long as Adult is capable

# Powers of Attorney: Uses

- Financial, business, banking, property, and limited legal decisions
- Cannot apply to health care or personal care matters



# Types of Power of Attorney



- **Springing:** Effective upon the occurrence of a specific event
- **Enduring:** Effective immediately and continues past the point of incapability

# Power of Attorney – Authority Given

- **General:** same powers as Adult
- **Specific Powers:** authority limited to a task or account.



# Bank Powers of Attorney

- Limited to specific bank/account
- Caution: New powers of attorney may revoke existing powers of attorney.



# Misuses of Powers of Attorney

Despite legal obligations:

- ⚠️ Attorneys do not always act in the older adult's best interests or follow prior instructions.
- ⚠️ Attorney uses funds for personal use.
- ⚠️ Attorney sells older adult's property.



# How to Choose a Power of Attorney



## Choose someone the Adult TRUSTS who:

- Understands and respects the Adult's values, wishes and beliefs
- Understands and respects their duties.
- Makes good decisions on your behalf
- Is good with details and record-keeping
- Can be available to assist them.

## Consider:

Are there any trusted alternates they can name?  
When would the Adult want their help?

# Tool #4: Joint Ownership



- E.g. Accounts, Investments, Real Property, Vehicles
- The adult can choose at what point they'd like a joint owner to start having access to their property if they don't already.
- Once it is jointly owned, it is shared property

# Joint Bank Accounts

- Two people own 100% - not divided 50/50.
- There may be valid reasons for using a joint account (e.g. a couple uses the money to pay household bills and shared expenses)



# Tool #5: Wills

- Contains instructions on what the Adult wants done with their body and everything an Adult owns after their death
- Appoints an Executor
- Effective only after death
- Some assets cannot be divided in a Will



# For a Will, Consider...



- Who can be a reliable executor?
- Who do you want to leave your assets to?
- What should happen if the people you leave your assets to, or your executor, dies first?

# How to Choose an Executor

## Choose someone you TRUST who:

- Can handle the required duties (i.e. taxes, probate, satisfying debts and distribution of assets, funeral arrangements)
- Is good with details and record-keeping
- Will be able and willing to manage disagreement between beneficiaries
- Is conveniently located



# When someone dies without a Will

- **Who will inherit?**

- Family members, following the order set by the law (spouse, children, etc.)
- As a last resort: Government of BC

- **Who will carry out the tasks of an Executor?**

- An "**Administrator**" is given the legal right to deal with the estate
- **Court** decides following the order of priority set by the law (spouse, child, sibling...)
- If no one is available, the Public Guardian & Trustee may be appointed by the Court

# Storage of Wills

- Store your Will in a **secure** but **accessible** location
- File a \$17 Wills Notice with Vital Statistics' Wills Registry to register the date and location of the will

**NOTE: DO NOT** remove the staple from your Will to copy or scan it.

This form is fillable. To begin, click in the Name field in the Mailing Address section, and start typing.

**Vital Statistics Agency** **Print** **Clear Form** **WILLS NOTICE (REGISTRATION OF THE LOCATION OF A WILL)**

**MAILING ADDRESS:** Name and address of testator or firm submitting this notice. Please **PRINT** clearly.

**FOR VSA OFFICE USE ONLY**

Name: \_\_\_\_\_ Address: \_\_\_\_\_ City, Province/State, Country: \_\_\_\_\_ Postal/Zip Code: \_\_\_\_\_ Work Phone Number (include area code): \_\_\_\_\_ FAX Number (include area code): \_\_\_\_\_ If mailing to a company, ATTENTION: \_\_\_\_\_

**IMPORTANT - We cannot register this notice without ALL these particulars.**

Wills Notice dated this \_\_\_\_\_ day of \_\_\_\_\_, A.D. \_\_\_\_\_ is filed respecting the will of \_\_\_\_\_ Green (relates to) Last Name: \_\_\_\_\_ Sex: \_\_\_\_\_ born on the \_\_\_\_\_ day of \_\_\_\_\_, A.D. \_\_\_\_\_ at \_\_\_\_\_ City/Town/Village \_\_\_\_\_ Province/State, Country \_\_\_\_\_

**Complete form in full**

**I Testator:** (Please choose **one** option only. Refer to "How do I register the location of my will?" on reverse.)

(a) have/has executed my/their Last Will and Testament and/or codicil (i.e. the will is signed and is legal)

(b) have/has revoked my/their Last Will and Testament and/or codicil (note: When a new will is executed, the previous will is automatically revoked.)

(c) have/has changed the location of my/their Last Will and Testament and/or codicil

Date of will and/or codicil: Day: \_\_\_\_\_ Month (written in full): \_\_\_\_\_ Year: \_\_\_\_\_

**Present location of will and/or codicil:**

Name of place, trust company, bank, law office, etc.: \_\_\_\_\_ Street Address: \_\_\_\_\_ City or Place: \_\_\_\_\_ Province: \_\_\_\_\_ Postal Code: \_\_\_\_\_ Telephone Number (include area code): \_\_\_\_\_

**X** \_\_\_\_\_ Signature of testator, solicitor, notary public, or trust officer

**Remit form with the fee of \$17.00 to the Vital Statistics Agency.**

This information is collected by the Vital Statistics Agency under section 28(2) of the Freedom of Information and Protection of Privacy Act, and will be used to fulfill the requirements of the Vital Statistics Act for the recording of the location of a Last Will and Testament and for the release of Last Will and Testament information. Should you have any questions about the collection of this personal information, please contact: Manager, Vital Statistics Agency, 200-852-2811, PO Box 9607, Stn Prev Govt, Victoria BC V8W 9P7.

**Print** **Clear Form**

VSA 531 20190212

# When Are The Tools Effective?

## *While the Adult is Alive*

- Joint ownership
- Powers of Attorney
- Representation Agreements
- Advance Directives

## *After the Adult Dies*

- Joint ownership
- Wills
- Appointment of beneficiaries investment/life insurance accounts

Powers of Attorney, Representation Agreements, and Advance Directives are **NOT** substitutes for a Will, and vice versa!

# What happens if someone becomes incapable without an Advance Care Plan?

## Health/Personal Care

- Temporary Substitute Decision-Maker
- Committee of the Person

## Financial Matters

- Committee of Property
- Pension trustee may be appointed if low-income



Applications to the Court can be made by the Public Guardian & Trustee or by family members with respect to such appointments and physicians can appoint temporary substitute decision-maker

# When Planning Ahead...

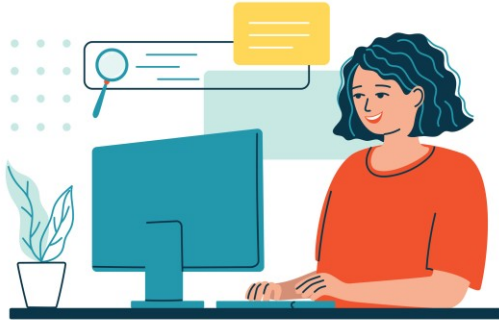
*Consider:*

- **Who** will be Executor, Representative, and Attorney and who will benefit from the estate (beneficiaries)?
- Does the Adult have their full legal names, addresses, and, if applicable, status number(s)?
- What if they pass away or do not want to be involved?
- **What** can each person help with?
- **Where** will the legal documents be stored?

*When hiring a lawyer or notary, ask legal professionals:*

- Do they specialize in dealing with this request?
- What steps are involved with each document , and how much will it cost?

# 4. Resources



- Province of BC's page on Incapacity Planning
- People's Law School
- Nidus
- Plan Institute



# Province of BC

- Provides information on Incapacity Planning
- Provides blank Power of Attorney and Representation Agreements (require a statutory declaration to allow alternate representatives/attorneys to assist).
- <https://www2.gov.bc.ca/gov/content/health/managing-your-health/incapacity-planning>

# People's Law School



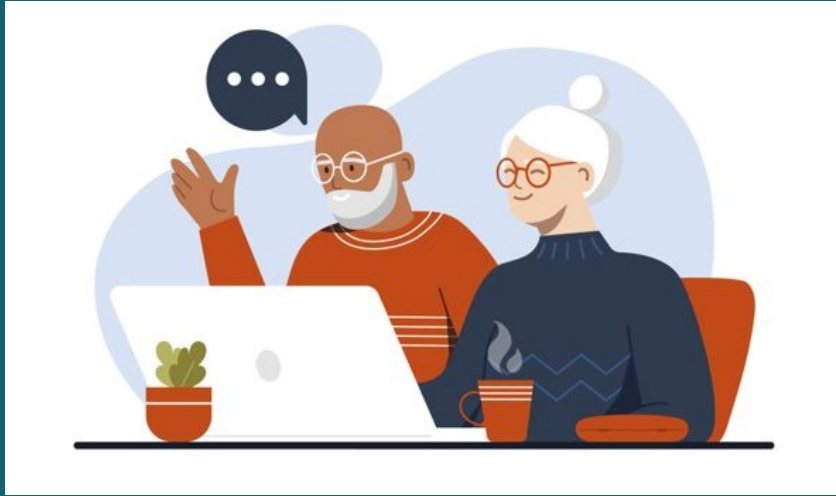
- Free educational materials for common legal matters
- Wills: <https://www.peopleslawschool.ca/category/wills-estates/>
- Powers of Attorney and Representation Agreements: <https://www.peopleslawschool.ca/category/plan-your-future-care/>

[www.peopleslawschool.ca](http://www.peopleslawschool.ca)

# Nidus Personal Planning Resource Centre



- Operates centralized registry for Representation Agreements and Powers of Attorney, etc.
- Email: [info@nidus.ca](mailto:info@nidus.ca)
- Website: [www.nidus.ca](http://www.nidus.ca)



# Thank you! Any questions?

Seniors Abuse & Information Line

1-866-437-1940 (toll free)

Language interpretation available

Email: [info@seniorsfirstbc.ca](mailto:info@seniorsfirstbc.ca)

*We are thankful for the support of:*

