

The Butler Bulletin

Butler Wills and Estates

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IS IT WORTH IT TO PREPAY FOR A FUNERAL?

THE PROS AND CONS OF LOCKING INTO A FUNERAL PLAN

One of the topics that comes up in will planning is what the person wants to have happen once they pass away. While it is the legal responsibility – and therefore, right – of the executor to deal with the person's remains, the vast majority of executors will opt to follow funeral instructions in the will.

Many of our clients come in to their meeting with their funeral planning pre-arranged and pre-paid. This is particularly true for our senior clients. It's a very personal decision, and one that requires some thought. In order to be better understand whether or not it is worth it to pre-pay for a funeral, we examined the pros and cons of paying in advance.

PROS

- Your family will know exactly what your wishes are. Your loved ones can focus on grieving rather than on organizing your funeral.
- You get to choose exactly what happens. If you have a specific preference for what you would like to have happen, pre-paying for your funeral allows you to decide precisely what will happen when the time comes.
- Your estate won't have to come up with the money when you pass away. Your funeral is paid out of your funds whether you pre-pay or not, but *when* you pay for it can be up to you. If you have the funds now and want to take care of a future expense that is entirely your choice.
- The cost of the funeral can't increase. Since you are locked in to one price for the service, you won't be charged more if funeral prices increase.

CONS

- You may not be able to change your mind. This depends on the policies of the funeral home, but some are non-refundable. Make sure to ask what happens if your wishes change down the road.
- The funeral home may not have the same level of service in the future that they do when you pay for the funeral. If the quality of service has deteriorated over time and you weren't able to get your payments refunded, your options are either stick with the lower quality, or pay again somewhere else.
- Funeral prices may not increase a significant amount. While the prices have certainly increased over time, they may not rise significantly before you pass away.

There are a few things you can do to make sure you are making the right choice. Be sure to shop around for prices. A standard funeral consisting of burial and service can cost upwards of \$7 000. Ask around at different funeral homes for options. Also, find out exactly what the refund policy is. It is entirely possible that you will change your mind so make certain you know whether or not your money can be returned to you. Alternatively, see if your funeral arrangements can be transferred to another location if needed. Finally, set a budget and stick to it. Deciding not to pick the most expensive choice on each option is not a bad thing.

I can't find a beneficiary. What should I do?

The executor needs to make a reasonable effort to find the beneficiary. This may include:

- contacting the beneficiary's family members
- checking his or her last known address and talking to neighbours
- checking with the last known employer
- if the beneficiary is a unionized tradesman, checking with the union
- contacting friends and ex spouses
- asking at places where the beneficiary has been known to have contacts, such as clubs where he or she might have been a member (e.g. Masonic lodge, church, gym)
- advertising in a newspaper in the area where the beneficiary was last known to live
- look through government departments such as Canada Pension Plan or provincial Maintenance Enforcement - they won't give you any information but they might agree to forward a letter for you
- if all else fails, hire a locating service to find the beneficiary

If the beneficiary still can't be found, the executor can proceed with administering the estate. Down the road the beneficiary may pop up, but the executor can say that he or she made a reasonable effort to locate him or her.

Our team will be changing!

In the next few months we'll have a few staff changes in our office.

Our office assistant Brad has been offered a full-time teaching position in British Columbia and will be leaving us at the end of the summer to start his new job and complete his Master's degree.

In the fall we will begin looking for a new part-time office assistant.

Also, joining us soon will be Greg, a recent law school graduate who will be completing part of his articles at our office. We will be sharing Greg with another law firm, so he won't be with us all the time.

Keep an eye on our website for more info about Greg, and for job postings.

"I went to see a lawyer to get a codicil, but he wouldn't do it. How come?"

There are a few reasons that the lawyer may not have wanted to write a codicil for you.

As with any business, lawyers retain the right to refuse a service. Here are a few of the most likely reasons.

1 – He doesn't do very many wills.

It is possible that the lawyer you went to doesn't write very many wills and wasn't comfortable creating this kind of document.

Professionals of any kind train in various areas, but don't necessarily practice in all of them. Consider, for example, asking a podiatrist for an exam on your heart. He or she could probably do it, but it wouldn't be at the same level of expertise if a cardiologist did it.

2 – He didn't write the will.

If the lawyer didn't draft the will, he might not be confident that the rest of the will is valid or accurate and didn't want to make a codicil to go with it. This makes sense – it is a huge risk to draft an add-on to a document you don't know much about.

3 – A codicil isn't what you need.

Depending on whether or not the will is valid, how old the will is, and what you are trying to achieve, a codicil may not be the tool you need. Codicils can be useful for minor changes that only impact part of the will, but with today's technology it is easier to write a new will than it is to draft an addition to an existing, older document.

Moving a Parent Out of Their Home

How to Handle This Step of the Planning

Eventually the time may come when you need to move one of your parents out of their home. Whether this is due to dementia or physical frailty, if your parent cannot safely live alone a change needs to be made.

Oftentimes seniors don't want to leave their homes, which is perfectly reasonable. Not only is the house full of memories, but your parent is likely nervous about something new and unfamiliar. He or she may also be concerned that they won't like the new place, that they will be forgotten, or that they are being forced to go. Here are some tips and suggestions for making the transition to a care facility easier for your family.

1 – Talk about it ahead of time (a lot).

Nobody likes to be taken by surprise for big changes.

Discussing moving to a care facility before it happens gives your parent time to get used to the idea.

Take the time to answer your parent's questions, even if he or she has previously asked the same thing.

2 – Involve your parent in the decision-making process.

When the time comes to actually look for a care facility, include your parent as much as possible. If you can, take him or her with you when you visit the facilities, and make sure it is clear that at this point you are gathering information so the two of you can make an informed decision. This allows your parent to feel some control over the situation, rather than have it thrust upon them.

3 – Pack personal possessions for your parent to take with them.

Of course your parent will need things like toiletries and clothing, but taking the time to pick out a few favourite possessions will go a long way. Spend a couple hours with your parent choosing which items he or she would like to take with them to put in the new space.

This may be something small, like books or framed pictures, or something larger like a blanket or bedside table.

4 – Reiterate that the lines of communication are always open.

Moving to a new spot will likely be stressful. Your parent may feel confused, scared, or abandoned for the first while. Make sure your parent knows that he or she can call you at any time, no matter what. Put your phone number in a place that your parent can easily access it, and always answer when they call.

5 – Set up a schedule.

Making a predetermined schedule for calls ensures that your parent won't think that you have forgotten about them. Arrange a time – either daily or every few days – for you to call your parent and check in. If you have siblings, include them in this schedule.

You can also set up a schedule for things like lunch dates or going for outings.

6 – Get to know the staff.

When you're visiting your parent, interact with the staff. Learn their names so you can talk with your parent about the people that he or she sees everyday.

It may also make your parent feel better to know that there is someone else interacting with them. Your simple interactions with the staff let them know that you are involved in your parent's life, which reassures your parent that you are on his or her side.

7 – Hang on to his or her house if you can.

Sometimes knowing that there is somewhere for your parent to go if they don't like the facility is a source of comfort for a parent. His or her anxiety is likely to be worse if he or she feels trapped at the new facility.

Keeping the house isn't possible in all situations, and it can't be kept forever. Care is expensive, and many families need to sell the house to pay for the facility. When the time comes to sell the house, include your parent in as many decisions as possible. Remember – it is their asset.

Some of the decisions your parent may be able to participate in include dividing personal and household items, what should be sold, and whether or not a family member should have the first choice to purchase the house.

HOW LONG DOES A WILL LAST?

Fortunately, wills don't expire. If it was valid when you had it done, it won't become invalid somewhere along the way. However, things change – relationships, careers, and family dynamics don't stay the same forever. So how long does a will actually last?

Frequently clients ask us if they really need to update their wills every five years. The answer to this depends on whether or not your circumstances have changed. If there has been a significant change in your life, whether personally or financially, you should consider having your will updated. If your situation is pretty similar to what it was when you had the will made, you may be alright with the will you have. It doesn't hurt to take your will out approximately every five years to review the contents. Anything that no longer reflects your wishes should be updated.

A few scenarios that prompt many people to update their wills include:

- Getting married or divorced
- The birth of children or grandchildren
- Having your children reach the age of majority
- Inheriting money or receiving a significant promotion at work
- Retiring
- Moving to a new province or country

A strong will should cover off at the least the next ten years. This includes some of the life events listed above. Keep in mind that while your situation may not have changed, the laws governing wills and estates have likely been through a few updates. If you haven't had your will updated in more than ten years, consider setting up a consultation with a lawyer to review it.

Remember – if you're thinking about updating your will, and you can't find it, your executor probably won't be able to either. If a will can't be found, the court assumes that it does not exist. This means the division of your estate will be done according to provincial legislation.

Please note our hours of operation have recently changed.

We are now open
Monday to Thursday
from
9 am to 5 pm.

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"All in favor of changing our name to the Justice League?"

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