

The Butler Bulletin

Butler Wills and Estates

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What is Adult Guardianship?

And how does someone get to be a guardian?

An adult guardian is someone who is appointed to make the personal and financial decisions of an adult who can no longer make these decisions for him/herself.

Often an adult guardian is needed because the person involved is experiencing declining mental capacity, such as dementia. In these cases, the appointed guardian will act as the guardian indefinitely.

In situations where the incapacity is temporary – such as a coma due to an accident – the guardianship will only be in effect until the person has regained capacity.

The responsibilities of a guardian vary depending on how much help the person needs.

In situations involving severe dementia, such as advanced Alzheimer's, the guardianship will likely include both personal and financial decisions. This means the guardian has control over where the person would live, how their money is spent, and

essentially every other aspect of the person's life. This blends the role of guardian and trustee.

Guardianship orders can also be restricted to only financial matters, depending on the needs of the person.

The role of guardian comes with a great deal of responsibility. The person appointed as the guardian has a great deal of control and power. When guardianship orders are all-encompassing, the guardian has control over every aspect of the person's life from personal to business and everything in between.

[How Is a Guardian Appointed?](#)

To be appointed as a guardian, you must apply to the Supreme Court of Newfoundland for a guardianship order. The legal process that gives you power as a guardian is a court order, granted by a judge.

This process is done entirely on paper, and in the vast majority of cases nobody needs to appear in court. In situations where there is

somebody opposing your application, you may need to go to court to argue the case in front of the judge. If you choose to have a lawyer complete your guardianship application, he or she can also represent you in court.

The application includes several documents, which tell the court what you are asking for, who is involved, what the situation is, and what the assets are of the person who needs a guardian. The court needs this information to be able to determine whether or not it is appropriate for the person applying to be appointed as the guardian.

Anyone else who has an equal right to apply to be the guardian must formally consent to the appointment of the person applying. For example, if one of four children is applying to be the guardian of their aging mother, the other three kids must consent in order for the application to be granted. These consents are included with the package of documents.

Can there be multiple administrators for an estate?

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When someone passes away without a will, someone else has to apply to be the administrator of the estate. We've talked before about what the options are if there are no adult family members in the province to apply, but what happens if more than one person wants to be the administrator?

In these cases, there can be more than one administrator.

When there are a few people who all want to work together and keep everyone on the same page, having multiple administrators can work really well. It provides a system of checks and balances in that every person is involved in the process, and in every transaction. You can divide up the work for things like making phone calls. When people can't work together, having multiple administrators may not be the best idea.

In most situations, having more of something rather than less is viewed as being more favourable. When it comes to administrators, having several people involved may not be the best option. Each of the administrators must sign everything, and all decisions must be unanimous. While having three sets of eyes on each transaction keeps everybody in check, it also means that three signatures have to be on everything before the estate can progress.

It's like having too many cooks in the kitchen – everyone has an opinion, and this can lead to problems.

Keep in mind there is a maximum of three administrators per estate, just as there can be at most three executors named in a will.

The Morbid-Sounding

Cleaning Trend

A popular new fad has taken over Sweden, and it sounds terrifying. Known in Swedish as “dostadning”, death cleaning is the process of continually removing the excess items from your home.

Death cleaning involves throwing out the things that clutter up your house, with the end goal of leaving less of a mess behind for others to deal with when you pass away. The cleaning process can start at any time, and continues until the last day you are able to get rid of things.

This doesn't mean you toss everything you don't use on a daily basis. Part of the cleaning involves differentiating between the items that bring you joy and the ones that don't. Anything that has good memories attached is allowed to stay, but anything that has bad memories has to go.

Executors are charged with cleaning out the house of the person who has passed away, and in every case there are items that can't be sold and end up in the garbage. Many items – like linens, old shoes, and kitchen utensils - aren't wanted by the residuary beneficiaries. It is up to the executor to deal with them, and unwanted items often end up in the trash.

The fewer unwanted items there are, the easier the executor's job is. To give death cleaning a try, pick one room in your house that mostly has storage. This could be the garage, basement, attic, or spare bedroom. Make it your goal to go through everything in that room and get rid of the items that don't have good memories.

If you feel wasteful throwing it out, consider donating it. Alternatively, you might be able to sell anything that still has value.

Help Us Support Iris Kirby House!

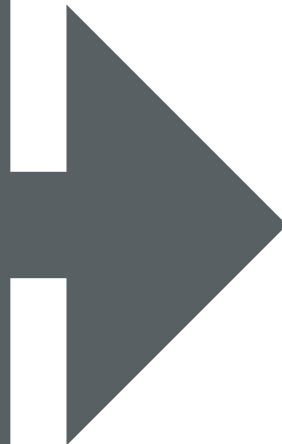
This year we want to do our part to give back to our community. Many of our clients include charitable gifts in their wills, and we believe in doing what we can to give back to those around us.

According to *Sector Source*, people in the Atlantic provinces provide more donations than the rest of the country, and 84% of Canadians over the age of 15 have donated to one charitable group or another.

For December we've partnered with Orchid & Oak Boutique to provide Iris Kirby House with as many donations as possible.

This organization provides a safe haven for women and children who are experiencing domestic violence.

For more info about Iris Kirby House, visit www.iriskirbyhouse.ca



What Should I Donate?

According to the Iris Kirby House website, there are some items that are needed more than others. These include:

- **Personal care/toiletry items**
 - Children's clothing
 - Linens
- **Non-perishable food items**
 - Gift coupons
 - Bus passes
- **Gift items for women/children**
 - School supplies

Please drop off your items at our office in the Hamlyn Road Plaza (just off Topsail Road, beside the Village Mall). You can donate anonymously, or sign our donors board.

If you'd like to donate financially, please visit the Iris Kirby House website to donate to the organization directly.

We will be dropping off all donations at Iris Kirby House the afternoon of Thursday, December 21.

Charitable Giving in Your Will

Leaving items or money to a charity in your will is fairly common. Some of our clients have a close connection to a specific charity due to personal or family experiences, and some just want to support a cause they believe in. Planned giving comes in many forms, but leaving bequests of money and items is the most popular. If you are considering leaving money to a charity or program, consider what you would want that money to be used for. For example, do you want to fund a one-time expenditure, or would you prefer to set up an ongoing scholarship?

If you like the idea of planned giving but you aren't sure which charity to include, try thinking about the groups that are in your community. Many of our clients are animal lovers, and want to include the local SPCA in their wills. Others want to support the Janeway Children's Hospital, or Memorial University.

There are a ton of resources for finding out more about planned giving. For a listing of fundraising organizations in Canada, visit www.donorsguide.ca and view the 2017-2018 Canadian Donor's Guide. To leave a legacy at Memorial University, reach out to Catherine Barrett at legacy@mun.ca.

Did You Know...?

In January Lynne will be doing two interviews on VOWR radio. Tune in to VOWR 800 AM for info about wills, POAs, and AHCDs.

VOWR is housed in Wesley United Church, and their first broadcast was in 1924.



Free Seminar!

We'll be hosting a free seminar on **Friday, January 19 at 4:30 pm.**

Come by to learn about:

- Wills
- Tips for choosing an executor
- Enduring Powers of Attorney
- Advance Healthcare Directives
 - Probate
- Taxation and principal residence
 - Mental incapacity
 - And more!

This seminar will be held in the conference room at Regency Towers, at 80 The Boulevard, St. John's.

There is plenty of free parking, and the room is on the main floor. Light refreshments will be provided.

Please feel free to share this newsletter with others.

*If you have any questions, comments, would like to suggest a topic, or to **unsubscribe**, please email us at chelsea@butlerwillsandstates.com*