



You and Your Will

Our Vision:

People affected by ALS in Ontario have what they require to live with dignity and choice.

Our Mission:

The ALS Society will:

Facilitate access to the best possible support, care and treatment for those with ALS;

Engage in advocacy, raising awareness and education.



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Your Will

Perhaps, like most Canadians, you will spend a lifetime building your financial security, saving for the future, paying off the mortgage, buying RRSPs, contributing to your pension plan and acquiring personal property. Unfortunately, like many Canadians, you probably have no formal plan for the ultimate distribution of those assets. You need to take the simple step of preparing a will.

We know that most people don't like to think about such things. But remember, a will is not about death, it is about life – the life and protection of your loved ones, and the appropriate level of support for those organizations which you hold dear. Without a will, your best intentions and promises made in life may not be realized.

This booklet has been prepared to encourage you to think about the importance of drafting a will and to help you with the basics of preparing it.



What Is A Will?

A will is simply a written document, properly executed, by which you specify how your property is to be distributed after your death. It is such an important planning tool for the well-being and financial security of your loved ones that everyone should have one.

Consider the advantages of a carefully drafted will:

- It provides financial security for your family and others;
- It divides your estate according to your wishes, subject to legal limitations;
- It makes a statement on your values in life;
- It allows you to make a meaningful contribution to organizations like the ALS Society of Ontario in which you have an enduring interest;
- It may minimize taxes due upon death and avoid the higher administration costs due to intestacy.

Without A Will

If you die without a will, i.e. intestate, by default you will be allowing the Government to decide the distribution of your estate for you. You will have no say in who benefits from your lifetime of effort. Nor will you have a choice of executors. And if you have no spouse or next of kin, the Government will take all of your estate into its own treasury.

Your failure to plan may have unforeseen consequences:

- The earnings of your lifetime could easily be depleted by taxes and unnecessary administration costs;
- If you have children, who are minors, you will not have the opportunity to express your choice of a guardian;
- The settlement process is more likely to be drawn out and your family to undergo financial hardship;
- Your business may be ruined by lack of any formal instructions on your part;
- There will be no donations to your favorite charities, like The ALS Society of Ontario.

A will is the usual means to provide an orderly and timely plan for the settlement of your affairs.



Where Do I Start?

One – Property and assets

The first step is to create a list of all your property and assets, including:

- Real estate – All your buildings, land, houses, cottages and condominiums.
- Personal effects – Furnishings, clothing, antiques, jewellery, cars, etc.
- Other property – Cash, bank accounts, securities, RRSPs, RRIFs.

Not all of your property will pass under your will. Life insurance, jointly held property, and survivor benefits of pension and other retirement plans will pass by contract or operation of law upon your death. Proper planning should take your whole estate into account. Accordingly, we recommend periodic review of the title of jointly held property and the updating of beneficiaries named in your insurance policies and retirement plans.

Two – Beneficiaries

Next, make a list of those you wish to remember in your will. You will want to provide for your dependents first, but here is your chance to be creative. You can give a work of art to a favorite aunt, honour a dear friend or create an Endowment Fund to support the program of your choice at The ALS Society of Ontario.

Three – An executor and an alternate

In addition to stating how your property is to be distributed, your will names an executor or executors. It is the legal duty of the executor to carry out the terms of the will.

Your spouse, relative, a friend or a trust company or a combination may be named, but choose with great care. The role may be quite complex, involving filing tax returns, investing assets and valuing property. For this reason, the executor may need business or other relevant skills.

Your executor should have broad powers to act, especially if you hold assets which need special handling such as a small business or certain types of property. The terms of your will should give the executor the appropriate power to administer your estate.

An executor, whether an independent professional or a family member, is entitled to reasonable compensation from the estate.



Ideally, your executor will be younger than you and you should name an alternate in case your executor cannot act or predeceases you. Be sure to obtain acceptance from the person you choose and ensure they understand the duties involved.

Four – Drafting your will

If your estate is modest, your will should be simple and may involve only a modest expense. There are several procedures.

You may draft your own will

A will prepared in your own hand is called a holograph will. Not all provinces recognize them as valid, and requirements such as witnesses may differ from province to province. Questions may arise as to your real intent and your estate could be tied up in court for many months.

Your will is too important to attempt without professional assistance.

Your lawyer or notary

For an appropriate fee, your lawyer or notary will draft your will in language so precise that there will be no doubt as to your intentions. Your will may be affected by laws governing matrimonial property and dependent relief legislation. There are no guarantees, but the use of a lawyer or notary will give you the greatest assurance that your will is valid and all legal requirements have been met.

A trust company

Most trust companies in Canada are happy to help you prepare your will. If you are already banking at a trust company, using the same company to assist in planning your will and to administer your estate may be very convenient. You should ask about the charges for preparing the will and the administration of estate assets.



Five – Execution of your will

Actual signing and witnessing is critical to the ultimate validity of the will and requirements differ from province to province. Don't do it on your own. Consult your lawyer.

Witnesses



Once you have drafted your will, don't let it get outdated.

Once your will has been drafted, you and your two witnesses will sign the document in each other's presence. They should not be beneficiaries named in the will nor their spouses.

As one or both may be called upon to give evidence as to the execution of your will, they should be residents of Canada and it is recommended that they be younger in age than you. In addition, a document required for the "probate" of

the will (called an "affidavit of execution") should be signed and sworn by one of the witnesses shortly after the will is signed.

Six – A regular review

A will drafted a few years ago reflects your thinking and lifestyle of that time. Consider what may have changed:

- Tax laws – Your will should reflect the latest tax saving strategies.
- Family circumstances – A birth, a death, or a move to a new province may indicate the need for a revision. Marriage necessitates a new will.
- Your investments – Your stocks have increased or decreased in value. You have bought some property, acquired a work of art or launched a small business.
- Your wishes – You may now want to add a new beneficiary, change your executor, or increase your support to The ALS Society of Ontario.

Through your will, you will want to provide for your dependents first, but here is your chance to be creative. You can give a work of art to a favorite aunt, honor a dear friend



or create an Endowment Fund to support the program of your choice at The ALS Society of Ontario.

Major changes may necessitate the drafting of a new will. Minor changes, however, can be made quite simply by adding a properly drafted and executed codicil which retains all the provisions of your existing will except those modified by this addition.

Don't hide your will

Many wills have been lost, leaving family and friends with the same anxiety and financial burdens as if there were no will at all. Don't let this happen to you. Tell your executor and family where the original will is kept. Keep a copy of your will with your other important papers, and file the original with your lawyer or trust company. If you leave your will in your safety deposit box, it would be prudent to arrange for your executor to have access to your box, otherwise, upon your death there may be delays in gaining access.

Without a plan, you could lose nearly half of the value of the gains and RRSPs to Canada Revenue Agency.

Other important information

Keep documents such as your birth certificate, social insurance number, insurance papers, bankbooks, credit cards, pension benefits, duplicate tax returns, burial plot and any funeral pre-arrangements in a place they can be easily located as this information will assist the executors in making funeral arrangements and in the administration of your estate.

About taxes

At present, there are no estate taxes or succession duties in Canada. But death taxes have not disappeared! Income tax on capital gains means the tax burden on your estate may be quite onerous.

For evaluation purposes, all your property – stocks, bonds, RRSPs, RRIFs, real estate, works of art – are deemed to have been disposed of at market value on the day of your death.

Your prized painting obtained at a bargain price and your summer cottage may have grown greatly in value, and these gains become immediately taxable on your death! This applies as well to that pile of RRSPs you have been building. Without a plan, you could lose nearly half of the value of the gains and RRSPs to Canada Revenue Agency. While



your executor may claim full personal exemptions, your estate will likely be paying taxes at the highest marginal tax rate.

Bequests to your spouse

You can defer tax by passing your appreciated assets to your spouse through your will. You and your spouse must, however, be Canadian residents at your time of death. This allows the tax to be deferred, but not eliminated. Your spouse is deemed to have received the capital assets at your adjusted cost base. Later, when the property is sold, or on the spouse's death, the taxes will be due.

A spousal trust

You can create a spousal trust for the benefit of your spouse through your will. As with an outright gift by will, the appreciated capital property passes to the trust on your death at your adjusted cost base, and no capital gains are triggered.

Spousal trusts are created to relieve the spouse of responsibility for managing the assets during his/her lifetime. The income from the trust must go to your spouse during his or her lifetime, but the capital may pass to beneficiaries of your choosing on your spouse's death.

Subject to family law legislation, a spousal trust may be the vehicle of choice in the case of a second marriage.

Charlie had a dilemma!

Charlie acquired \$300,000 in bonds and wanted his second wife, Gloria to benefit financially after his death. At the same time he was committed to making a significant gift to the ALS Society of Ontario.

The bonds were transferred to a spousal trust, with the ALS Society of Ontario as the beneficiary. This allowed Charlie the benefit of an immediate donation receipt for the value of the bonds. The interest income from the investment would be paid directly to Gloria during her lifetime. It also provided the venue for Charlie to make a significant gift to his charity of choice. It turned out to be a win-win for everyone!

The Charitable Gift Of A Lifetime, In Your Will



You may be one of the many people who have expressed their personal connection with The ALS Society of Ontario through a donation. And, like many donors, you may have wished that you could give more.

The ideal gift matches your passion with The ALS Society of Ontario's greatest aspirations. In addition, a charitable bequest allows you to:

- Reflect your own life values;
- Provide a lasting expression of your particular life;
- Pay tribute to a parent, spouse or child;
- Establish a memorial or an endowment fund in the name of a loved one;
- Provide future ongoing support for The ALS Society of Ontario.

A gift can take several forms:

Specific gift

A bequest of a specific dollar amount or a gift of an identifiable piece of property.

Contingent gift

A gift which takes effect only in the event of the prior death of other named beneficiaries.

Residual gift

A gift of the balance or part of the balance of your estate after other specific gifts have been fulfilled.

Naming The ALS Society of Ontario as a residual beneficiary would remove the possibility that your estate might go to the province should your other beneficiaries not survive you.

Gifts subject to trust

A trust can be established through your will by which named beneficiaries receive income for life. Upon the death of the beneficiaries, all or part of the capital would go to The ALS Society of Ontario.

A charitable bequest can save taxes



In the year of your death, Canada Revenue Agency allows you to give charitable gifts of up to 100% of your estate's Net Income for the year in question. Any excess can be carried back one year to the extent of 100% of that year's income to save taxes on that year's return.

A varying but substantial portion of every \$100 contributed to a charity is saved from the combined federal and provincial taxes owed by your estate. A charitable gift may be a highly recommended tax saving strategy to offset taxes arising from capital gains.

In 2000 Mrs. DeVol writes a cheque for \$50,000.00 to the ALS Society of Ontario. Her annual net income is \$80,000.00. Assuming she makes no further charitable gifts, she can claim up to \$16,000.00 on her 2000 tax return and her remaining \$34,000.00 on her next three years. If she chooses to use the contribution as quickly as possible, she can claim:

*\$16,000.00 on her 2000 tax return
\$16,000.00 on her 2001 tax return
\$16,000 on her 2002 tax return, and
\$ 2,000.00 on her 2003 tax return*



Lifetime giving – a consideration

You may wish to institute a long-range program of lifetime giving, combined with a bequest in your will. Perhaps you have an enduring interest in some specific program or service offered at The ALS Society of Ontario. If The ALS Society of Ontario approves of your program, you can support your area of interest now by making a yearly cash donation and endow it in perpetuity through a gift in your will.

Janet was determined to make a lasting gift in her mother's name. Losing her Mom to ALS was the most tragic thing that had ever happened to her, and she was committed to honouring her Mom's last wishes. She wanted to do more than make a gift every year. She wanted to make a gift that would last, and would help the organization for years to come!

She made the ALS Society of Ontario a beneficiary of \$10,000.00 in her will, but wanted to see the amount reach \$25,000.00 . To accomplish this she decided to make cash donations over a three-year period in the amount \$15,000.00. To ensure the funds would be allocated as she wanted, she endowed it in perpetuity through her will.

Janet was delighted with the decisions she made:

- *She named the fund after her mother*
- *She received tax receipts immediately for the yearly amounts donated*
- *The ALS Society of Ontario would ultimately receive a substantial financial gift, which it is obligated to protect and place in its investment portfolio*
- *The gift provided an ongoing income stream in perpetuity to be used as decided*

The ideal gift matches your passion with The ALS Society of Ontario's greatest aspirations.



How Do I Make A Gift?

If you are contemplating a change to your will, or if you are about to have a will drafted, a gift may be made by including a statement in your will similar to the following:

I direct my trustees to pay, transfer or deliver _____% of the residue of my estate to The ALS Society of Ontario located at 3100 Steeles Ave E, Suite 402, Markham, Ontario L3R 8T3 and the receipt of the Treasurer or other proper officer for the time being of the ALS Society of Ontario, shall be sufficient discharge to my trustees in respect thereto.

- OR -

To the ALS Society of Ontario located at 3100 Steeles Ave E, Suite 402, Markham, Ontario L3R 8T3, the sum of \$_____ and I declare that the receipt of person who professes to be the Treasurer or other proper officer for the time being of the ALS Society of Ontario, shall be sufficient discharge therefor.

You should also deal with the possibility that at the time of your death the particular program you wish to fund may no longer be available or may have changed its purposes. You may want to build in a clause giving the charity flexibility to fund priority programs that are similar in nature to your original intent. Your lawyer can help you deal with this possibility.

A Last Word

You should always seek advice from a lawyer or notary when preparing a will or codicil and from a chartered accountant for advice regarding income tax. The information in this booklet is general and should not be relied upon as a substitute for professional advice.

Thank you for your interest in supporting The ALS Society of Ontario. For more information on how to become a 'Legacy Member' by naming the ALS Society of Ontario in your will, contact the Society at 905-248-2101 or 1-866-611-8545 and ask to speak to the Director of Fund Development or the President.

Privacy Statement We are committed to protecting the privacy of your personal information. During the course of our activities, we frequently gather and use personal information. You may expect that your information will be carefully protected and that any use of this information is subject to consent. The ALS Society of Ontario is accredited by the Canadian Centre for Philanthropy as an adherent to the Ethical Fundraising & Financial Accountability Code. If you have any questions or comments regarding your privacy, please contact us at 1-866-611-8545 or visit our website at: www.alsont.ca.





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SOCIÉTÉ ONTARIENNE DE LA SCLÉROSE LATÉRALE AMYOTROPHIQUE

