

SENIORS

Clearly communicate estate plans

Ensure all documentation is in place and make wishes known

Estate planning. For a lot of people it rates right up there with a root canal or a tax audit.

If you've made an estate plan and are wondering if you've done it right this column is for you.

My estate plan isn't perfect but I'll use it as an example to help get us started.

I've got a will that appoints an executor to administer my estate after I'm gone, an enduring power of attorney for my legal and financial affairs, a representation agreement for health care and personal decisions and an advance care directive that will speak for me if

I am alive but unable to speak for myself.

Four documents. That's it. Well, almost. I also use a record keeper booklet to help keep track of my personal and financial documents.

They're usually available from your financial institution, at no charge.

My concern is that a number of estate plans that many seniors have in place will probably not do what they expect them to. That's especially true if they've had their estate plan drawn up more than, say, a decade ago. Typically, those plans might contain a will, a



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power of attorney and a statement of wishes or a living will. That might have been adequate a few years ago but not today.

Experts tell us that if you want your wishes to be legally binding you need to have a properly appointed alternate decision maker in place.

In B.C. this can be done by having a

representation agreement.

I've heard from a number of seniors who think a representative agreement and an advance directive are useless and as evidence they cite the example of Margot Bentley. Bentley is a senior with Alzheimer's disease and was involved last year in a court case with Fraser Health around her ongoing care and the validity of her living will.

I've written extensively about that case and I won't repeat myself here. Suffice it to say that the judge found that Bentley's living will was not a valid representation agreement or advance directive.

The judge also found, to the surprise of many, that Bentley was capable of providing consent and therefore her living will

did not apply.

There's another reason, quite apart from meeting any legal requirement, to have an advance directive in place. It's a mistake to assume your family understands or shares your wishes.

The more clearly you indicate your wishes, the easier it will be for your family and your health-care providers to follow your wishes in the spirit you intended.

I need to take my own advice here. I'm good with the estate planning documents; I'm not so good with the discussion. I'm not sure my family is aware of my wishes regarding my funeral or organ donation or that they know the quality of life that I wish for myself if I am no longer able to

speak for myself. I need to fix that.

The lesson here is that there are really two parts to getting your estate plan right. You need to have the right documents in place and you need to make your wishes known to your family and your caregivers.

Most of us are better at doing one than the other. I'm a perfect example of that.

Finally I'm not qualified as an estate planner. I sought professional advice when I prepared my estate plan. I'd recommend others do the same.

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