

# Future Planning for Decision making Fundamental Legal and Financial Issues

Advocacy Centre for the Elderly  
2 Carlton Street, Suite 701,  
Toronto, Ontario  
M5B 1J3  
[www.ancelaw.ca](http://www.ancelaw.ca)

# Advocacy Centre for The Elderly

- ▶ 2 Carlton Street, Suite 701  
Toronto, Ontario  
M5B 1J3
- ▶ Tel – 416-598-2656
- ▶ Fax – 416-598-7924
- ▶ Website [www.ancelaw.ca](http://www.ancelaw.ca)
- ▶ ACE Newsletter – E version – send Email to [kabam@lao.on.ca](mailto:kabam@lao.on.ca)  
with Subject Line NEWSLETTER
- ▶ Newsletter is also on website and may be sent to you by  
regular mail
  
- ▶ Judith A. Wahl  
Executive Director  
Barrister and Solicitor

# What Affects Legal, Care and Financial Planning?

- ▶ Jurisdictional Differences
- ▶ Need to know the legal options, service options, the law in the place where YOU live or to which you may MOVE to
- ▶ The law may be Federal, State or Provincial, may be some municipal differences
- ▶ Service options vary even within a state of province

**DETAILS are IMPORTANT!!**

# Overview :

## Key Issues to Think About

- ▶ Decision Making in General

When do I have the right to make decisions for myself and when does someone else get authority to do that for me?

- ▶ What do I need to do so that if I am not able to make particular decisions for myself, someone I trust is willing and prepared to do that for me in the way I would want?

# Overview:

## Key Issues to Think About

- ▶ Financial Decision Making

What are my expenses, my income sources, my debts, my financial obligations to others now and potentially in the future?

What are my assets and would someone else KNOW where to find that information?

Don't forget Information on Computers!!!

# Overview:

## Key Issues to Think About

- ▶ Care and Services Planning

What services and assistance and care do I and my family use now, may need in the future?

Are their costs for those services and care and how do I pay for them?

# Decision Making

- ▶ General right to make decision for yourself as long as “capable” to do so
- ▶ If not capable – WHO would make decisions for you and how do you plan for that ?

# Things to think about for planning for Decision Making

- ▶ Mental Capacity

What does that mean in the state or province in which I reside?

Is capacity different for different types of decisions? (Property, personal care, shelter, health care, etc.etc.)

- ▶ Is there a PRESUMPTION of capacity unless there is clear evidence otherwise?
- ▶ Under what circumstances may my decision making capacity be called into question?



# Things to think about for planning for Decision Making

- ▶ WHO decides whether I am mentally Capable or not for a particular decision? WHY? Is that in the law in the place where I live or is that as a result of “practice” ?
- ▶ Is that different for different types of decisions such as property management decisions, health decisions, etc. ?
- ▶ If its different does that affect how I need to plan?

# Things to think about for planning for Decision Making

- ▶ If I disagree with whomever determined my incapacity to make a decisions , what may I do if I disagree?
- ▶ Is there a legal review process and how do I access that ? Do I have a family member or friend that might help me to access that process?

# Things to think about for planning for Decision Making

- ▶ Who will make decisions FOR me if I am not capable to make a particular Decision?
- ▶ Does the law in my home state/ province provide for AUTOMATIC decision makers for me for some type of decisions if I am not capable for a temporary purpose or long term ?
- ▶ WHO is that person or persons and, if I DON'T want that person to make decisions for me , What do I need to plan ahead of time?

# Things to think about for planning for Decision Making

- ▶ What's the process to appoint a Proxy of my Choice in the place where I live?
  - Powers of attorney for Property
  - Powers of Attorney or Similar documents to appoint a proxy for personal care and/ or health decisions
- ▶ WHEN may I sign such a document?
- ▶ Do I need a lawyer to prepare such a document or may I prepare it myself?

# Things to think about for planning for Decision Making

If I prepare a POA of ANY type or a similar document ..

- ▶ What POWER and Authority does my Proxy have?  
Are there decisions that my proxy CAN'T make for me?
- ▶ WHEN does the document come into effect?
- ▶ Could it be in effect while I am still able to make decisions for myself?
- ▶ May I change it if I don't want that proxy anymore?  
HOW do I do that ?
- ▶ May I name MORE than one proxy to act together?

# Things to think about for planning for Decision Making

- ▶ If I haven't prepared a POA/ Other documents to name a proxy THEN what happens if I am not capable and NEED a proxy decision maker?
- ▶ Is it better or worse for me and my family if someone has to take some alternative route such as a court application to get authority to manage my money or make other decisions such as health decisions for me?

# Things to think about for planning for Decision Making

- ▶ What do I need to do to prepare my proxy for making decisions for me?
- ▶ Conversations about....?
- ▶ What's IMPORTANT to me about how I live? About my family? About my health care?
- ▶ WHERE do I want to live?
- ▶ What does quality of life mean to me?
- ▶ How Do I want my proxy to make decisions for me – what to consider, what to do if ....

# Financial Decision Making Planning

What are my expenses – day to day NOW, what could they be in the future?

Does my family / future proxy KNOW what all my ongoing expenses are – bills, financial commitments

Where are the documents that show what my expenses are / my financial obligations are and how could my family / proxy access that information?



# Financial Decision Making Planning

What are all my income sources? NOW – and will these change in the future?

Where do I keep that information and can my future proxy or family access that when needed?

Are there privacy forms / releases/ consents I need to prepare to let them do that ?

# COMPUTER INFORMATION and other tools to access my information, income , assets

- ▶ Passwords – FOR WHAT and where are they?  
How can my proxy or family access them when they need to?
- ▶ Do you have multiple computers , electronic devices, USB keys, storage devices on which you store this information?
- ▶ KEYS to safety deposit boxes , storage units, cars, trucks, property etc. .

# Financial Decision Making Planning

- ▶ Do I know all the public financial benefits if any that I am entitled to and if I meet the eligibility for these benefits have I accessed everything I am entitled to?
- ▶ Are there privacy forms / releases/ consents I need to prepare or that I may prepare now to let them do that ? Does my family and proxy know what to do if I cant do consents or haven't done consents when I was able to?

# Financial Decision Making Planning

What are my assets and would someone else KNOW where to find that information?

- ▶ Where are deeds to property? Mortgage documents? Contracts? Lease agreements ? Other important papers?
- ▶ Where are my bank accounts, GICs, tax returns, any other forms of savings and will my family or proxy know where these all are?

# Financial Decision Making Planning

- ▶ Do I want to plan for :

GIFTS for family ?

Financial support for grandchildren for school or property purchases?

Charitable donations?

If I can afford this? And does my family / proxy KNOW that I want this to be done or to continue ?

# Wills and similar documents concerning post death financial planning

- ▶ Do I WANT to prepare a will and Have I prepared a will?
- ▶ Does my will cover everything that would be important to my family and to others important in my life so there won't be family feuds?
- ▶ If I don't prepare a will how will my estate be distributed post my death?
- ▶ Do I want to plan for organ donation or donation of my body to science and how do I do that when I am still alive?

# Care and Services Planning

- ▶ What services and assistance and care do I and my family use now, may need in the future?
- ▶ What services / care may I get through public sources?  
Through private sources?
- ▶ What do I have to pay for? What DON'T I have to pay for?
- ▶ Do I need to plan for insurance to cover costs ? Does my existing insurance cover me / my family for what I may need in the future?
- ▶ Where do I get this information to guide me?

# Care and Services Planning

- ▶ What are the RULES (the law) about Eligibility and access to the services I think Ill need in the future?
- ▶ Access and Eligibility for:
  - Home care
  - Retirement or Assisted Living
  - Supportive Housing
  - Long Term Care (Nursing home care)
  - Hospital Care (any differences in different TYPES of hospitals? )



# Other related issues I may need to know about and plan for..

- ▶ Rights on discharge from hospitals
- ▶ Rights to access particular services and programmes
- ▶ Waiting list for different services – how does that work? What are my rights if I'm on a waiting list?
- ▶ Advance care planning for health care – do you know how it REALLY works in the state or province in which you live?

# Other related issues I may need to know about and plan for..

- ▶ Rights while living in an assisted living/ retirement home
  - are these tenancies or covered by a different law?
  - How do I contract for services or is there a set of services I must pay for?
  - Are the costs for the accommodation and services increased over time and does the law set out how those increase may take place ( notices before increases? % increases? Limits on increases?
  - Can the operator require me to leave and if so under what circumstances and does he/ she must DO something before I am required to leave?

# Other related issues I may need to know about and plan for..

- ▶ Rights while living in a Long Term Care Home (Nursing Home)
  - What's the law that covers this?
  - What are my rights while living there?
  - If I move in, may my spouse also move in with me ?  
If my spouse needs to have care needs before moving in , is there a programme for “spousal reunification” that would give my spouse a priority to get in ?

# Resources and Information

- ▶ Where can you get the RIGHT information that CORRECTLY reflects the law in the place where you live on these issues?

WATCH OUT for information and Resources from Other Jurisdictions

WATCH OUT for materials and information that's SOUNDS informative but is not CORRECT

# Advocacy Centre for the Elderly

2 Carlton Street Ste 701

Toronto, Ontario

M5B 1J3

- ▶ 416-598-2656
- ▶ [www.ancelaw.ca](http://www.ancelaw.ca)
- ▶ [wahlj@lao.on.ca](mailto:wahlj@lao.on.ca)

THANK YOU!!