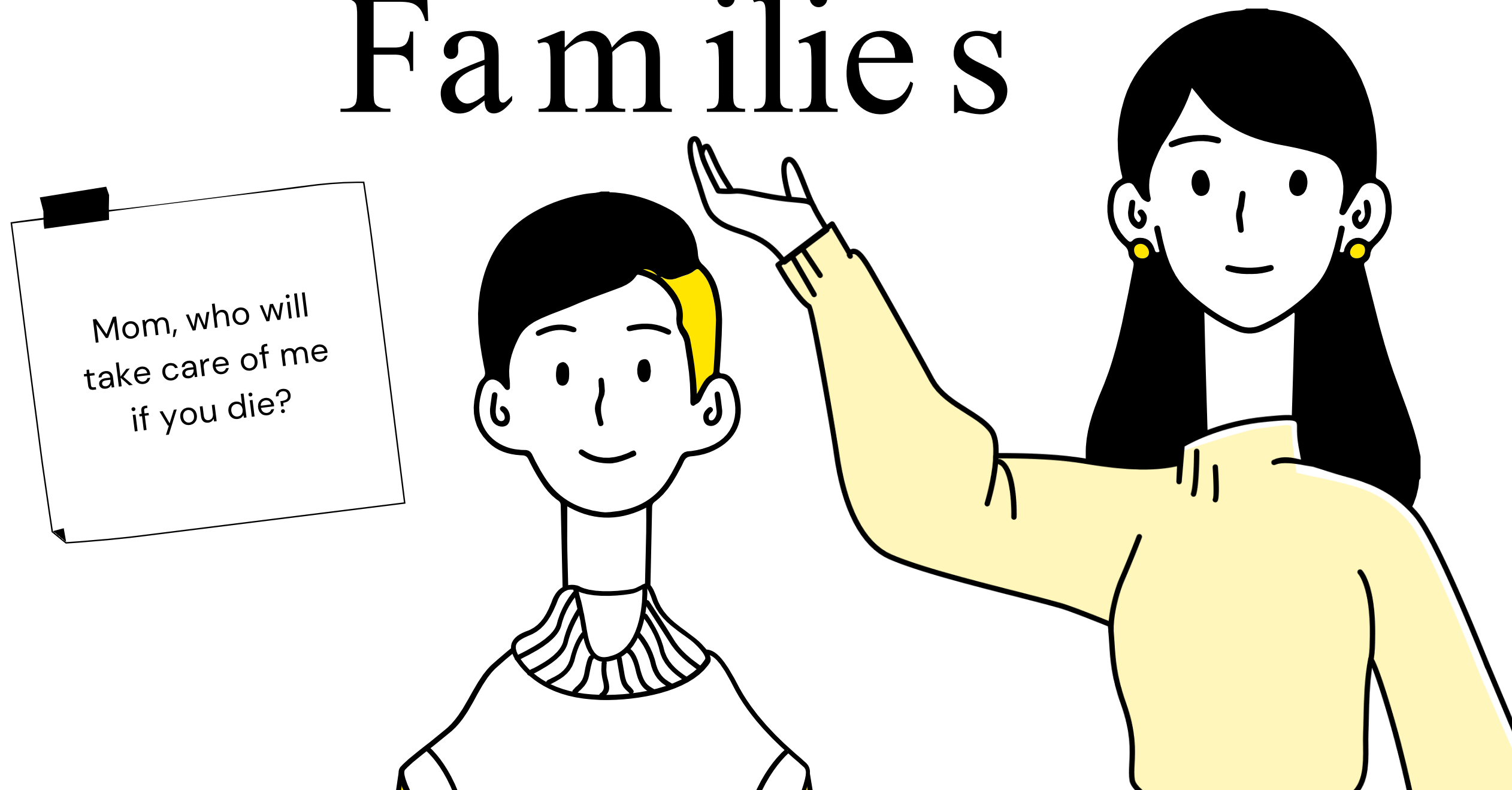




Wills and Estates and Blended Families

June 29, 2021



Wills and Estates

Recorded on June 29

Legal Aid BC 



Recorded on: 29.06.2021

Length: 45 minutes

[CLICK HERE](#)
[TO WATCH THE WEBINAR](#)





June 29, 2021

Today's Agenda

1

Introduction to Death and Incapacity in the time of Covid

3

Fishbowl Role Play: apply what we learned

2

What happens when someone dies without a will?

4

Closing and Questions



June 29, 2021

Death v. Incapacity

SONALI SHARMA will be your facilitator today in guiding a discussion around death and incapacity

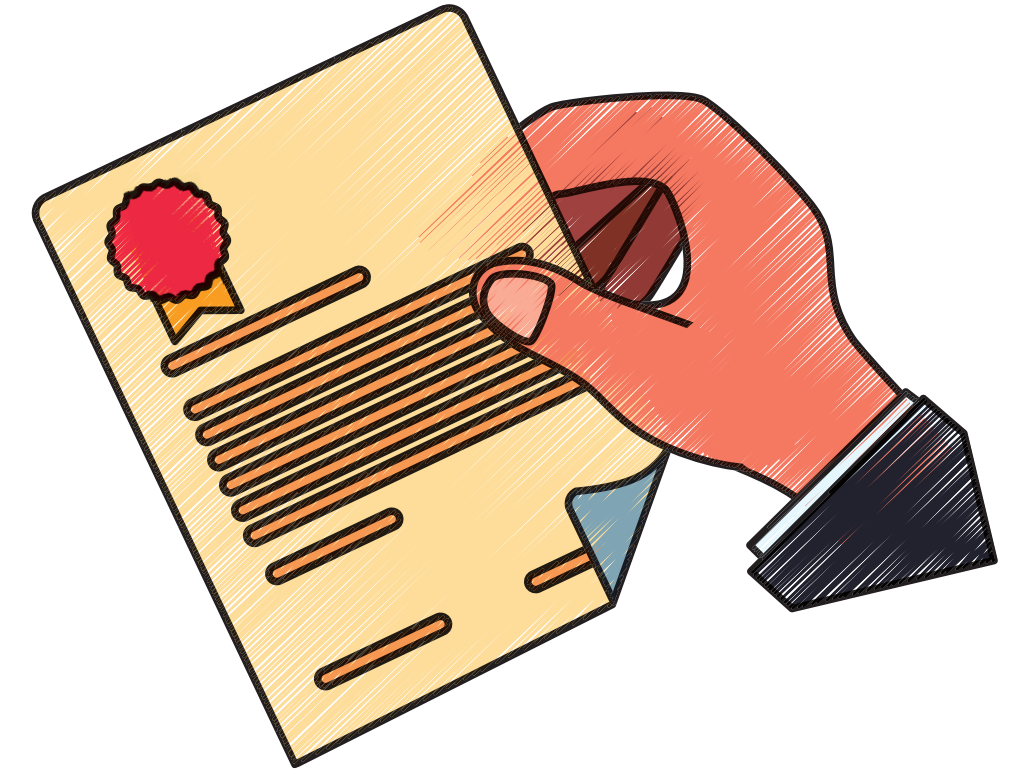
The goal of our session is to democratize the wills and estates process.

As facilitators, our role is to keep the session on track and to ensure everyone participates in the discussion.

Sonali



TYPES OF DOCUMENTS



1

WILL

3

Representation
Agreement S.9

2

Power of Attorney

4

Representation
Agreement s. 7

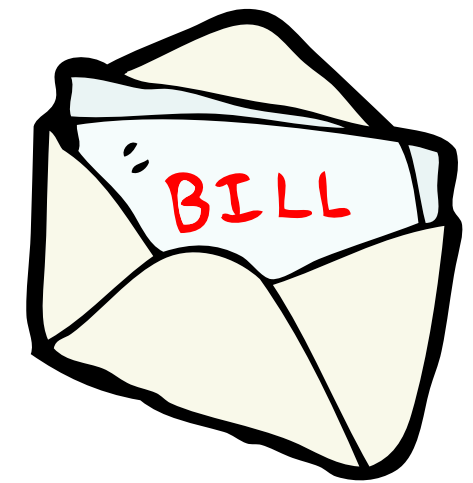
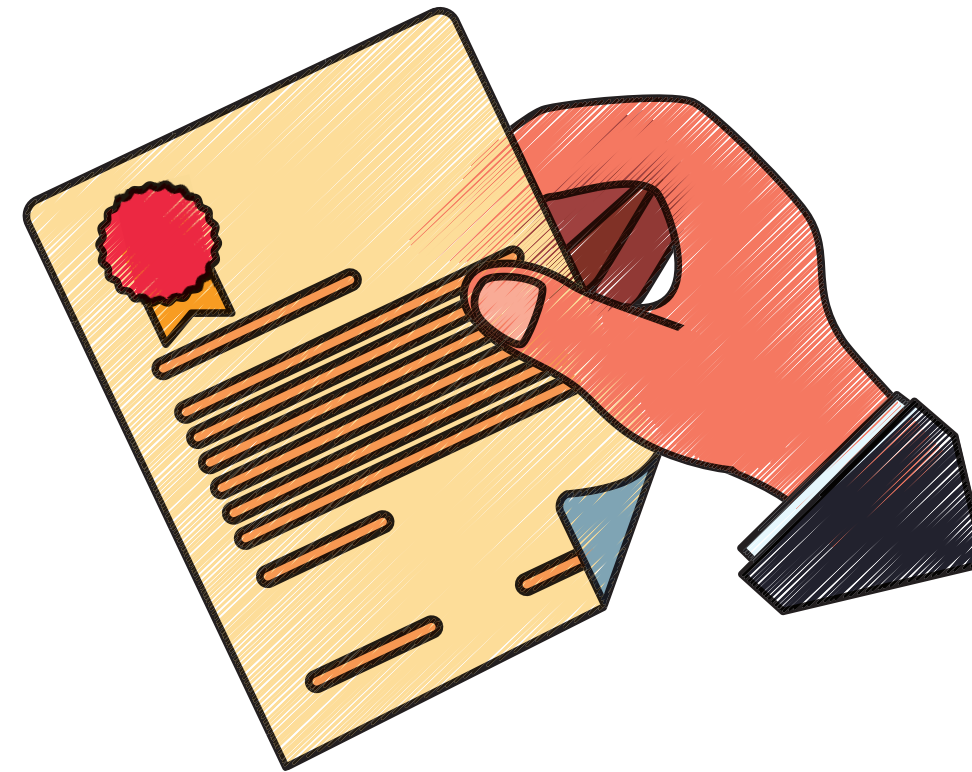


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Power of Attorney

Legal Document

Allows adult (Donor) to appoint an Agent (Attorney) to make to make LEGAL AND FINANCIAL decisions on her/his behalf when they are still alive but are unable (due to lack of mental capacity* caused by illness or injury)





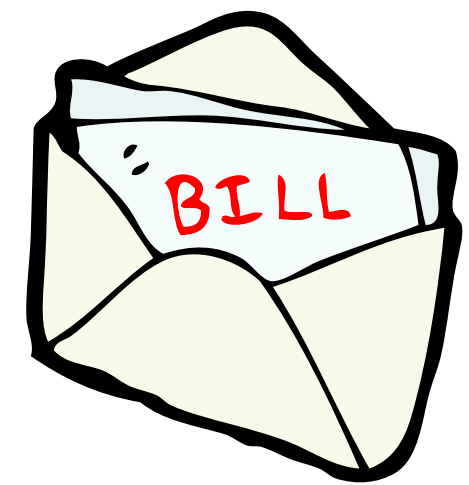
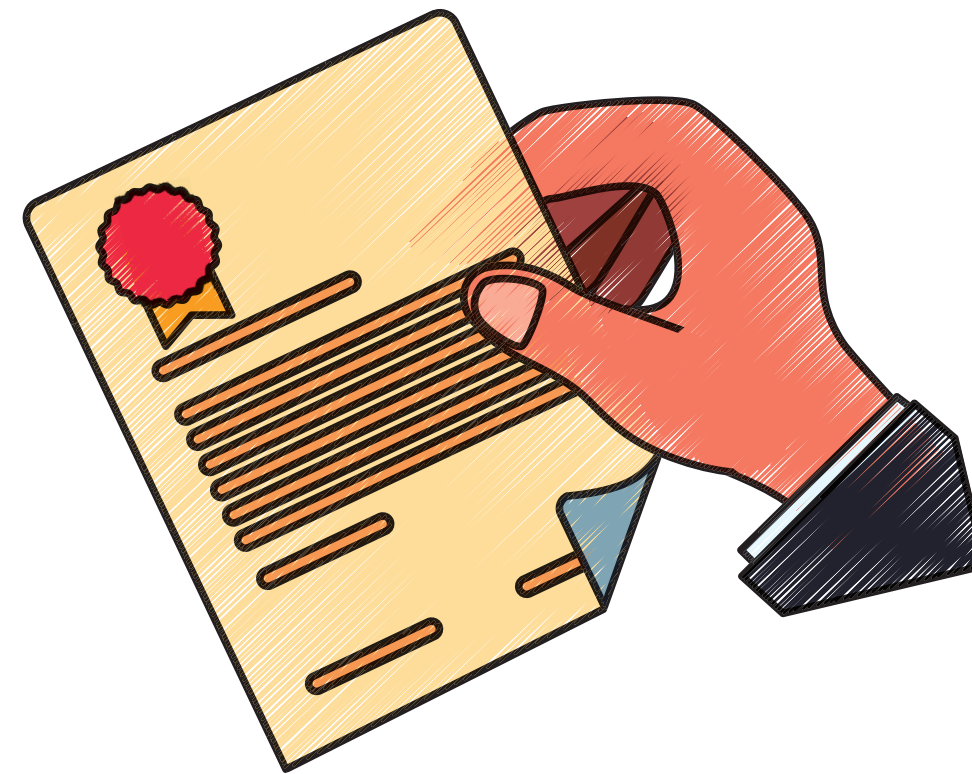
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What are Power's of an Attorney?

Unless specified - ALMOST EVERYTHING to do with financial and legal decisions (i.e. paying bills, accessing bank accounts, investing, buying and selling stocks, credit card applications, changing beneficiary designations, etc..)

Buying and selling real estate

Gifting money/donating to charities and others (including her/himself)



Representation Agreement S.9

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REPRESENTATION AGREEMENT S.9

Type	What is it
RA 9 (Adult has full capacity)	<ul style="list-style-type: none"> Contract re <u>healthcare</u> decisions (can't be someone who is paid) 1 or more representative Can include advanced directive specify any health care related wants or needs (NOT FINANCES) recommend filing with your doctor(s) + nidus Starts when adult is deemed "incapable" * Can include coverage of requests under Health Care (Consent) and Facilities (Admissions) Act 1 Witness Required only for Adult (*Note cannot be representative, spouse, child, parent of the representative, employee or agent of representative, or under 19)

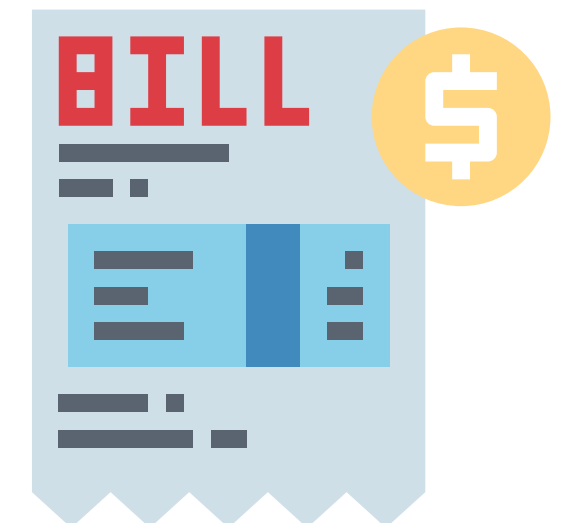
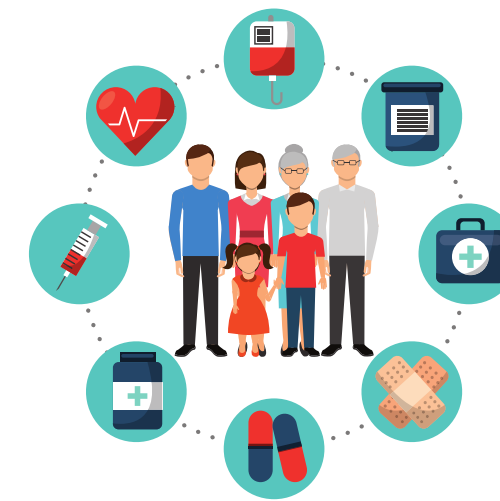


Representation Agreement S.7

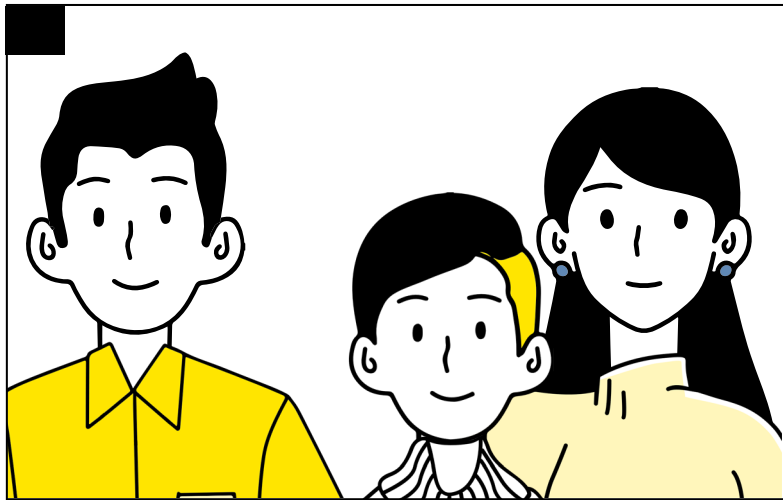
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REPRESENTATION AGREEMENT S.7

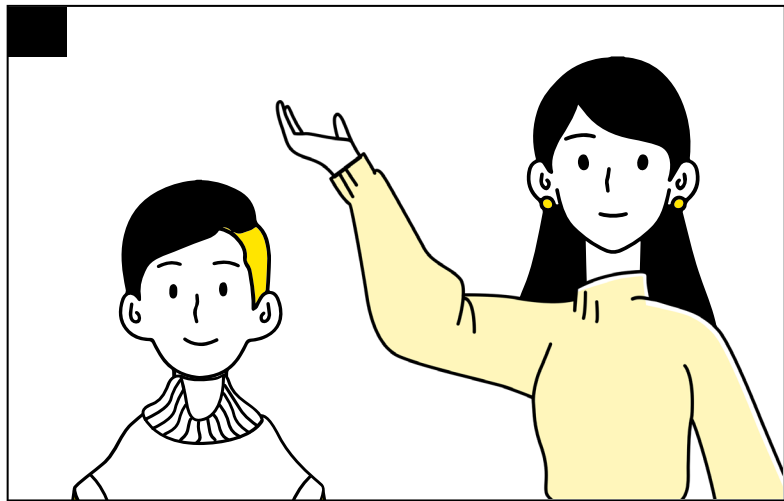
Type	What is it
RA 7 (Borderline Capacity)	<ul style="list-style-type: none"> • Contract re healthcare decisions (can't be someone who is paid) • 1 or more representative (Very specific signing requirements) • Cannot include Advanced Directive • Personal care • Routine management of financial affairs (this includes things such as paying bill, depositing income, purchasing food/accommodation/services, and making investments). • It does <u>NOT</u> include, among other things, selling real property; • Major and minor health care (but not the extended powers below) • Obtaining legal services other than divorce; • • Accepting a care facility proposal if the facility is a family care home, group home for the mentally handicapped, or mental health boarding home



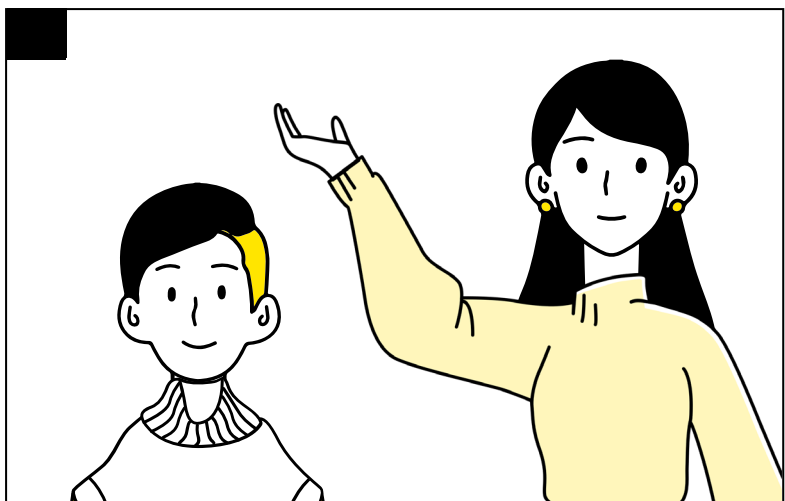
Jenny's Personal Planning- Fact Pattern



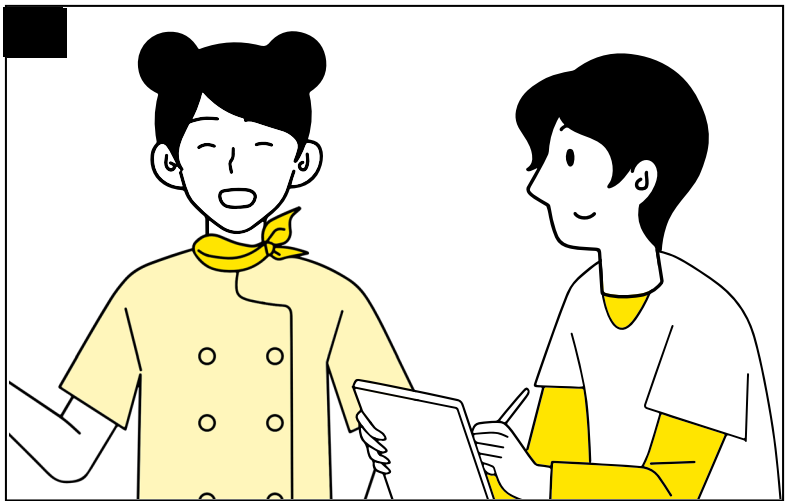
Jenny separated from Ben and they have a son, Eddie who is 11 years old. Jenny and Ben are not yet Divorced. She is worried about Eddie's guardianship and making sure that Eddie receives the savings in her bank account if she was to pass.



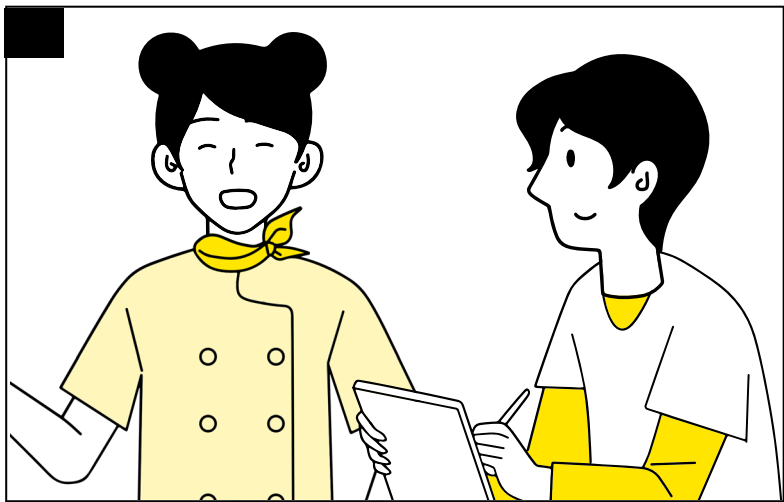
What are Jennie's Options? What are some questions Jennie needs to consider?



Jennie Researches on the Internet to see how she can do this in an inexpensive way



She finds the Mylaw BC website and does the guided pathway questionnaire to see if she can do a simple will?



Jennie must answer a series of questions- Who will be her executor, is Eddie the only beneficiary? Does she have a trust set-up in her will to provide for Eddie until he turns 19.



Jenny Downloads her plan from MylawBC.



Jennie goes over the plan with her pal Steven., whom she has asked to be her Executor

<https://mylawbc.com/paths/wills/>

1. Before you get started

2. Answer multiple choice questions

3. Download your action plan and fill out your will

4. Final steps

Get started here

4 minute instructional video

Get documents to plan the future.
Choose a pathway, answer questions, and get your action plan.

COVID-19: Legal Aid BC now takes [phone-only applications](#). Your questions [answered](#).

Get help with making a will and planning for the future

COVID-19 has shown us that having a will and making personal planning documents must be a priority. Having these important documents will reduce stress for your loved ones and make sure your wishes are honoured. Personal planning documents will help your family cope if you are incapacitated and unable to make legal, financial, medical, or personal care decisions for yourself. A will lets your loved ones know what your wishes are after you have gone, including for your children, your assets, or your funeral. MyLawBC's services are all online, and we'll give you links to other helpful online or phone-based services. Please see [Online access to justice](#) for more help.



MyLawBC can help you make a simple will that says what you want to happen after you die. You'll get a downloadable action plan with a will you can fill out and print. If your situation is complicated, you can't make a will with MyLawBC but your action plan will give you information about what you need in your will and where to get help.


You can also plan for a time when you can't decide for yourself. You'll get an downloadable PDF action plan about documents you'll need to arrange for future decision making about financial, legal, and health and personal care matters.


You might not be able to make a will with MyLawBC. See [What MyLawBC doesn't cover \(PDF\)](#) for more.

Find out more about making your will with MyLawBC.

START A PATHWAY

-  **Make a will**
Create a simple will to fit your needs.
-  **Plan for the future**
Identify the documents you need for future decision making.



Watch on  YouTube

Stage 1: Answer multiple choice questions

Answer questions about your situation.

Get an action plan to find solutions.

Do you agree to name each other as executor and leave everything to each other?

☒ Yes

☐ No

This is called a mirror will. If one of you dies, the other becomes the executor and the only beneficiary. You will name the same backup executor and backup beneficiary(ies) in case you both die together.

Before you begin

Optional worksheet



Can I make a will?



Making a will during COVID-19




< Back

Next >

Stage 2: Download your action plan and fill out your will

Filling out the form at the top of the word document will generate a simple will within the same document

INFORMATION ABOUT YOU			
	Spouse 1:	First name: Lorem	Middle name(s): J.
		Last name: Ipsum	
		Nickname (Fill this in if you usually go by a first name that's different from your legal first name): <input type="text"/>	
		If you own property (land, house, condo), check the title to see how you listed your full name. If it's in any way different from what you filled in above, list it here: <input type="text"/>	
		Gender (M/F): (The words <i>he/his/him</i> or <i>she/her</i> are used in the will. Whenever this form asks for the person's gender, you can choose to leave it blank; the person's full name will be repeated instead.) male	
	Spouse 2:	First name: <input type="text"/>	Middle name(s): <input type="text"/>
		Last name: <input type="text"/>	

Last Will of **Lorem J. Ipsum**

1. This is the last Will of me, **Lorem J. Ipsum**, currently of 123 4 st, Vancouver, British Columbia.

Revocation of prior wills

2. I cancel all of my previous wills including any changes or amendments I've made to those wills.

Stage 3: Final steps

These steps will be covered in more detail in your will document.

1. Consider having a Lawyer or notary look over your will before you sign it.
2. If your will is ready arrange a time with your witnesses to sign it.
3. You and your witnesses should first sign the bottom corner of each page.
4. Sign the will.
5. Refer to the action plan for next steps.

Your next steps

What to do later

Store your wills

You would be wise to keep your wills in a fireproof (metal) box such as a metal filing cabinet or cash box or even in your home freezer. Give your backup executor copies and let them know exactly where you are keeping your wills. It's not a good idea to keep the wills in your safety deposit box unless the backup executor also has a key to the box. Without a key, the backup executor has to prove that they're the executor before the bank will give them access to the box.

Register your wills

If you don't tell your backup executor where you're keeping your wills, you can register the location and date you made them with the [Wills Registry](https://www2.gov.bc.ca/gov/content/life-events/death/wills-registry) (<https://www2.gov.bc.ca/gov/content/life-events/death/wills-registry>) from the Vital Statistics Agency of BC. The law does not require this, but it's a good idea because it shows where you've put your current wills. They don't keep the wills; they just keep the date and location of them. If you make a new will or move or change the location of your wills, you need to update the information with Vital Statistics.

Keep a record

Keep an up-to-date, detailed record of all that you own and all that you owe. What you own includes bank accounts, RRSPs, RRIFs, TFSAs, and other investments, insurance, real estate, and pension benefits. What you owe may include credit-card debts, a line of credit, personal loans, mortgage loans, and payments under a court order. Keep notes of anything that is owned in joint tenancy or that name a specific beneficiary. As mentioned, these are dealt with outside the estate and shouldn't be on your will. The executor doesn't have to manage them, but must know how to locate them.

Talk to family members, the beneficiaries, or anyone who may be entitled to a share of the estate. Explain what your plans are. This will help manage expectations and prevent problems later.

Change your wills if necessary

Review your wills and your choice of backup executor every three to five years or when your circumstances change. It's wise to update the wills if there are any changes such as your spouse dies, an alternate beneficiary dies, underage children become adults, you become grandparents, or you separate or get divorced (a divorce won't automatically cancel a will). There are two ways to make changes: sometimes you can make a codicil (a formal document amending the will) or you may need new wills. Get legal help to find out what's necessary for your changes.

Each of you is free to change your own will at any time.

Where to get help

What are the formal requirements- She must have 2 witnesses (in-person or via audio-video technology i.e. ZOOM)

Jenny is ready
to execute the
Will

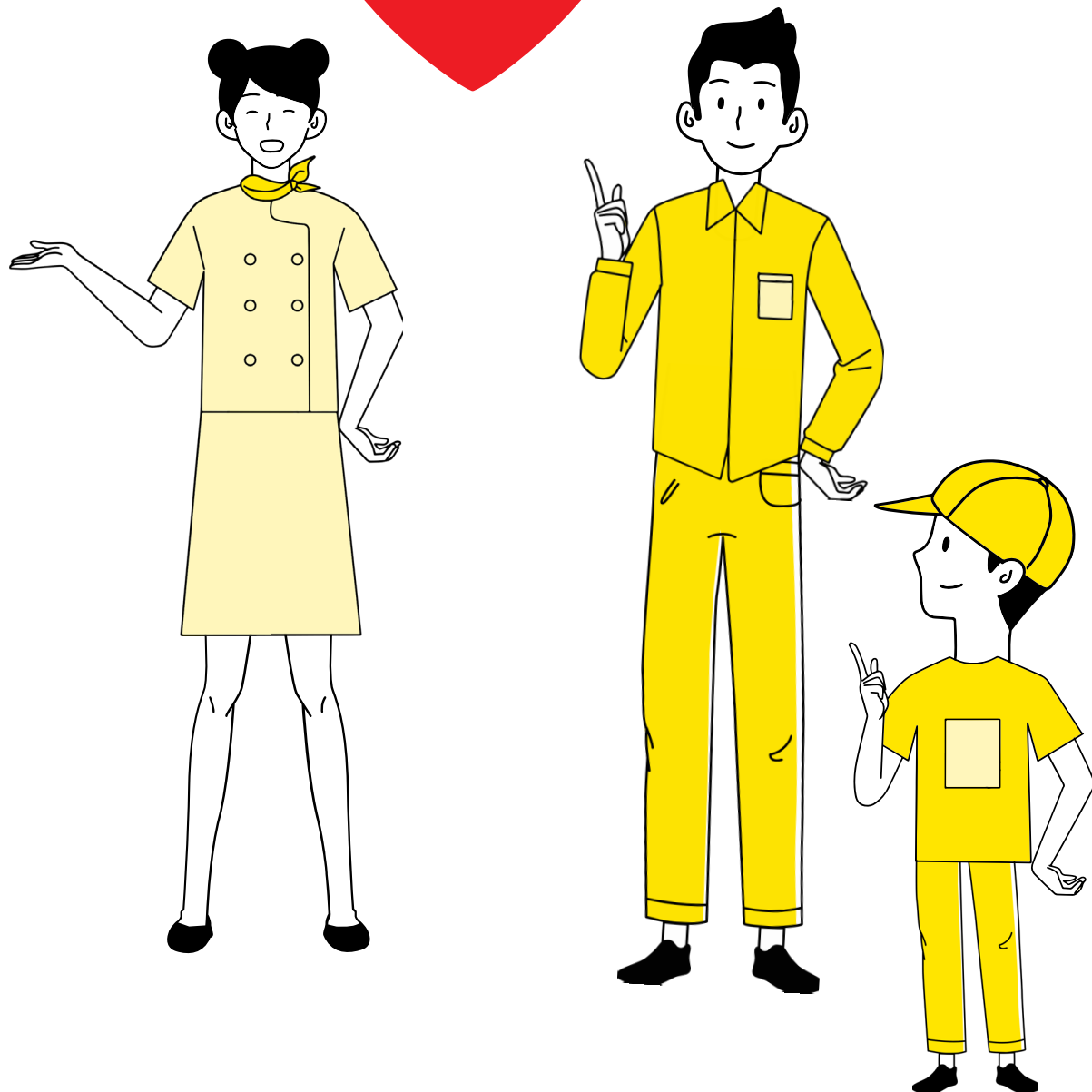
What if she can't get two witnesses and the will remains unsigned?

MyLawBC - What's not covered

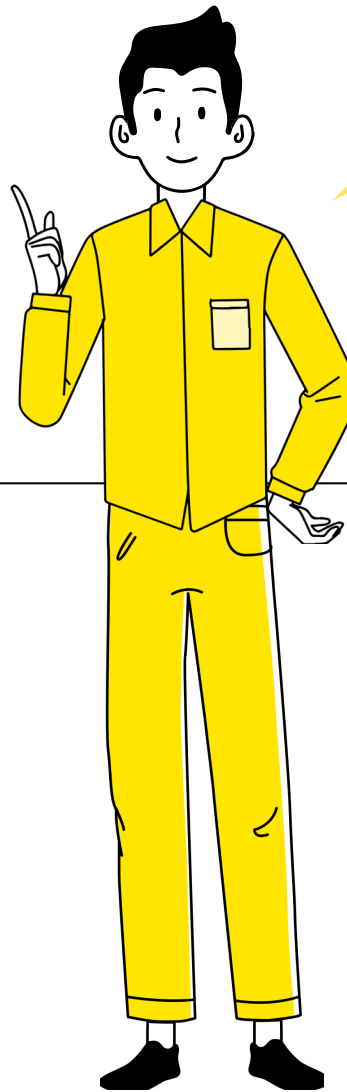
Donating to charities

- Don't have an executor
- Going through a Divorce or separation involving children and custody/guardianship issues
- You can't sign off on your will because of illness
- You have pets and you want specify ownership
- You have a business or interest in a business
- You own property abroad
- You owe income tax abroad
- You want to compensate your Executor for the work they have done

15 years later



Eddie is
no longer
a minor



What Would
happen if
Jenny died
without a will?

Intestacy- dying without a will

1

Someone would have to
apply to become the
administrator of Jenny's
will

2

All of Jenny's relatives or
"descendants" will need to
be notified

3

This Process will take
longer than if she had a
valid will- usually takes 6
months to a Year to do a
simple grant of
administration without will

Note to self: GET A WILL!

Death Checklist

Some Questions and Resources when some dies?

Obtain Death Certificate

Contact service canada

Cancel Insurance, utilities, credit cards, etc.

Notice to Creditors

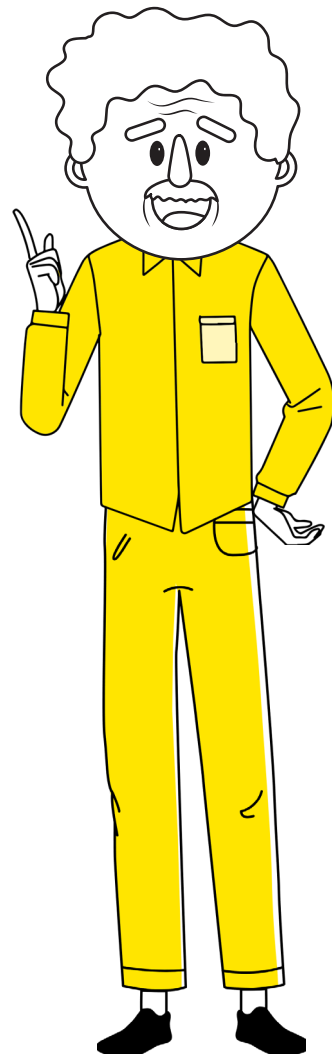
Was there a will? Did you do a Wills Search?

Was the deceased eligible for a death benefit CPP

Redirect Mail

CAPACITY

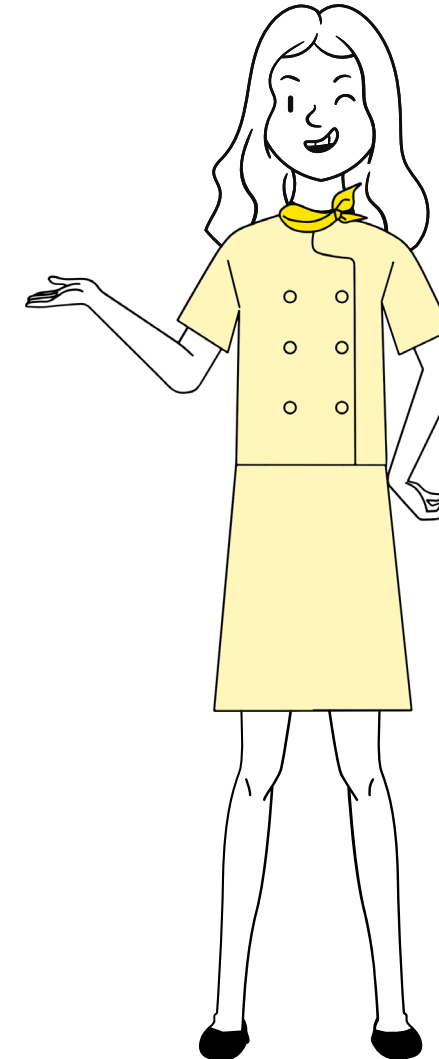
Capacity is fluid and differs for different things.



Meet Jerry Peters

Jerry is 81 and is looking to update his Will. His daughter Jen "encouraged" him to get his will updated.

What are some red flags with this situation ?

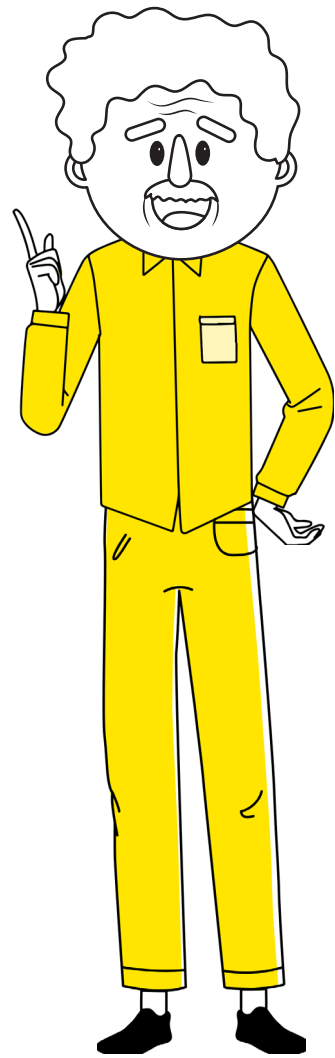


Meet Jerry's Daughter- Jen

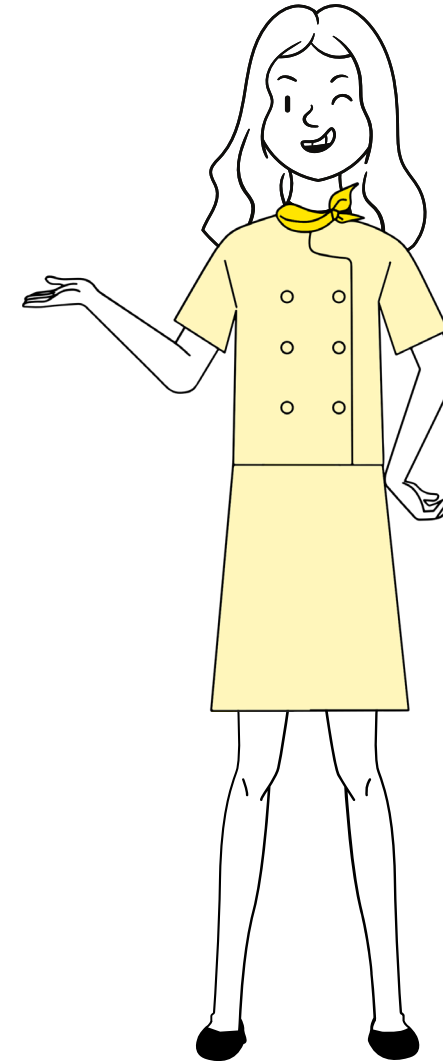
Jen brings Jerry to the lawyer to have his will done and his Power of Attorney. She has another sister, Kathy whom she doesn't get a long with. She has not told Kathy.

CAPACITY

UNDUE INFLUENCE



Is Jerry Being
Influenced by Jen?



Come on Dad- do
the right thing!



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RECAP

Let's go back and discuss.

1

ACTION ITEMS- KEY TAKEAWAYS

Death v.
incapacity

Dying
without a
will

Resources
for clients

Wills and Estates on Reserve



Checklist for Wills on Reserve

1

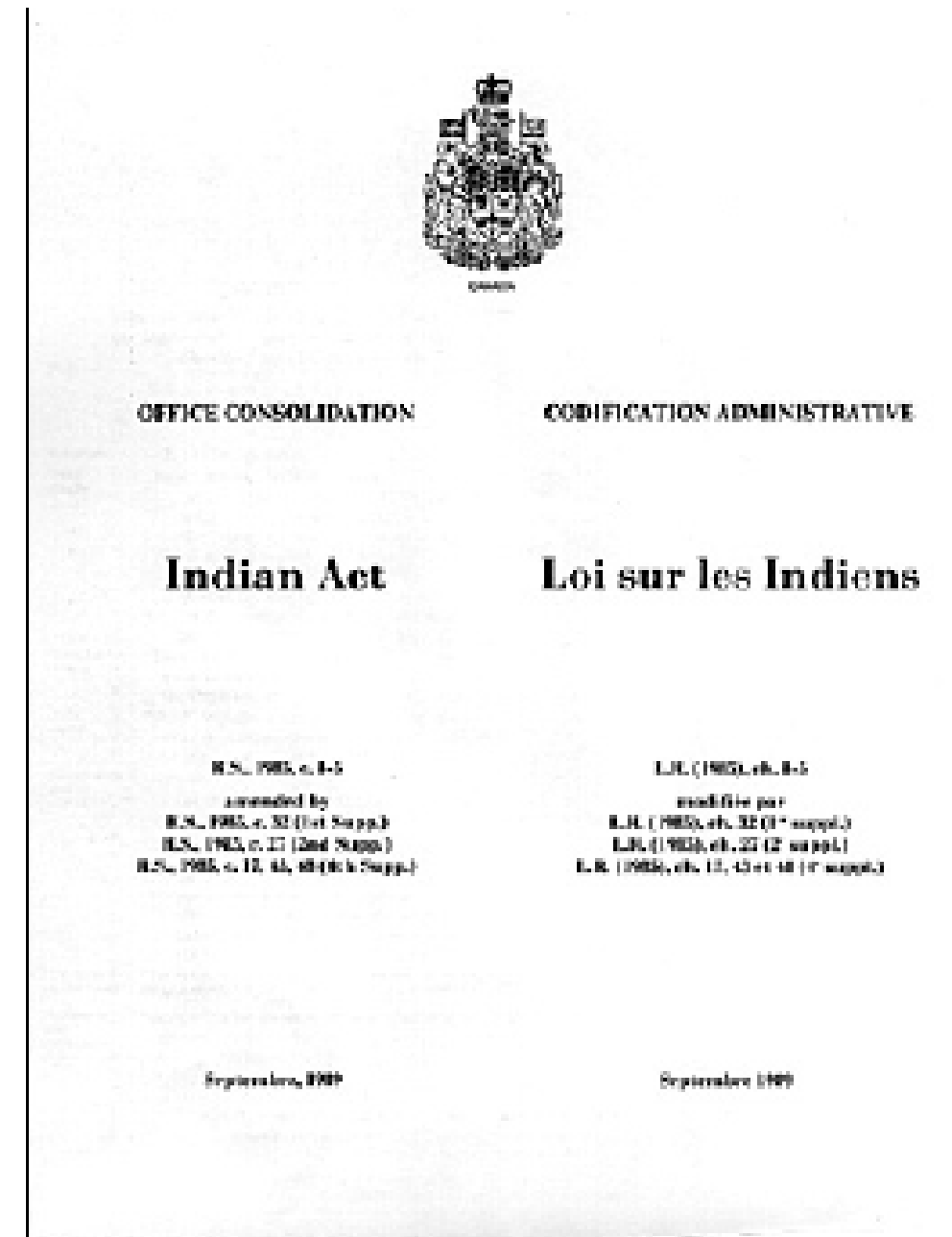
Did the Deceased "ordinarily" live on or off reserve? Or did they live "ordinarily" on crown land?

2

Obtain Death Certificate ASAP and conduct a Wills Search through Vital Statistics and check to see if deceased had Secure Certificate of Indian Status

3

Whether or not a person has a will that ordinarily lived on reserve, the minister must approve the will and the family member who acts as executor (

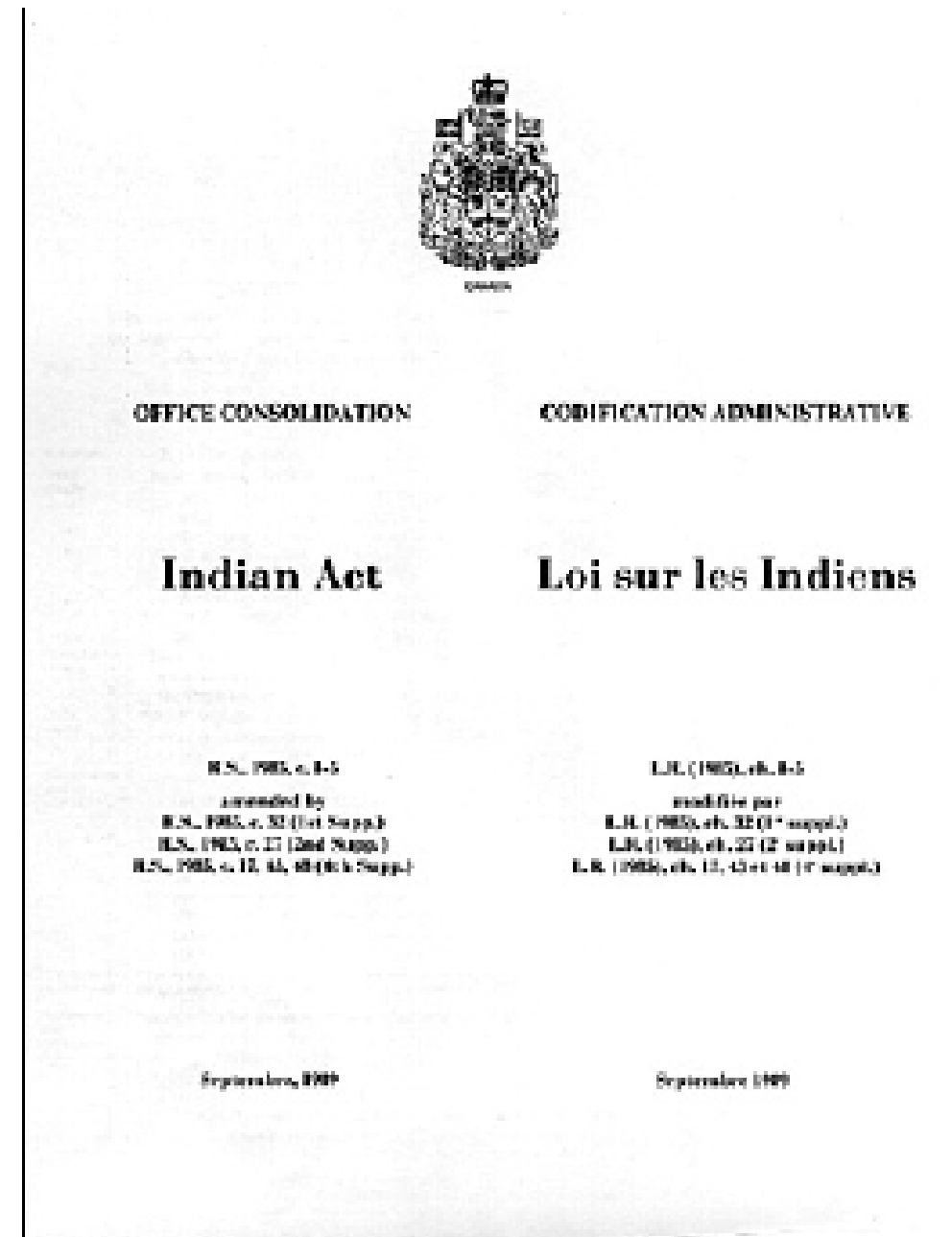


Checklist for Wills on Reserve- Continued

4 Contact estate services at
aadnc.estates-
successions.aandc@canada.ca

5 If a First Nations person was living off a
reserve at the time of death, the estate
is the responsibility of the province,
territory or country where they lived

6 What happens when a person
doesn't have a will? - depends did
they ordinarily live on the reserve or
not?



Resources for Wills and Estates on Reserve





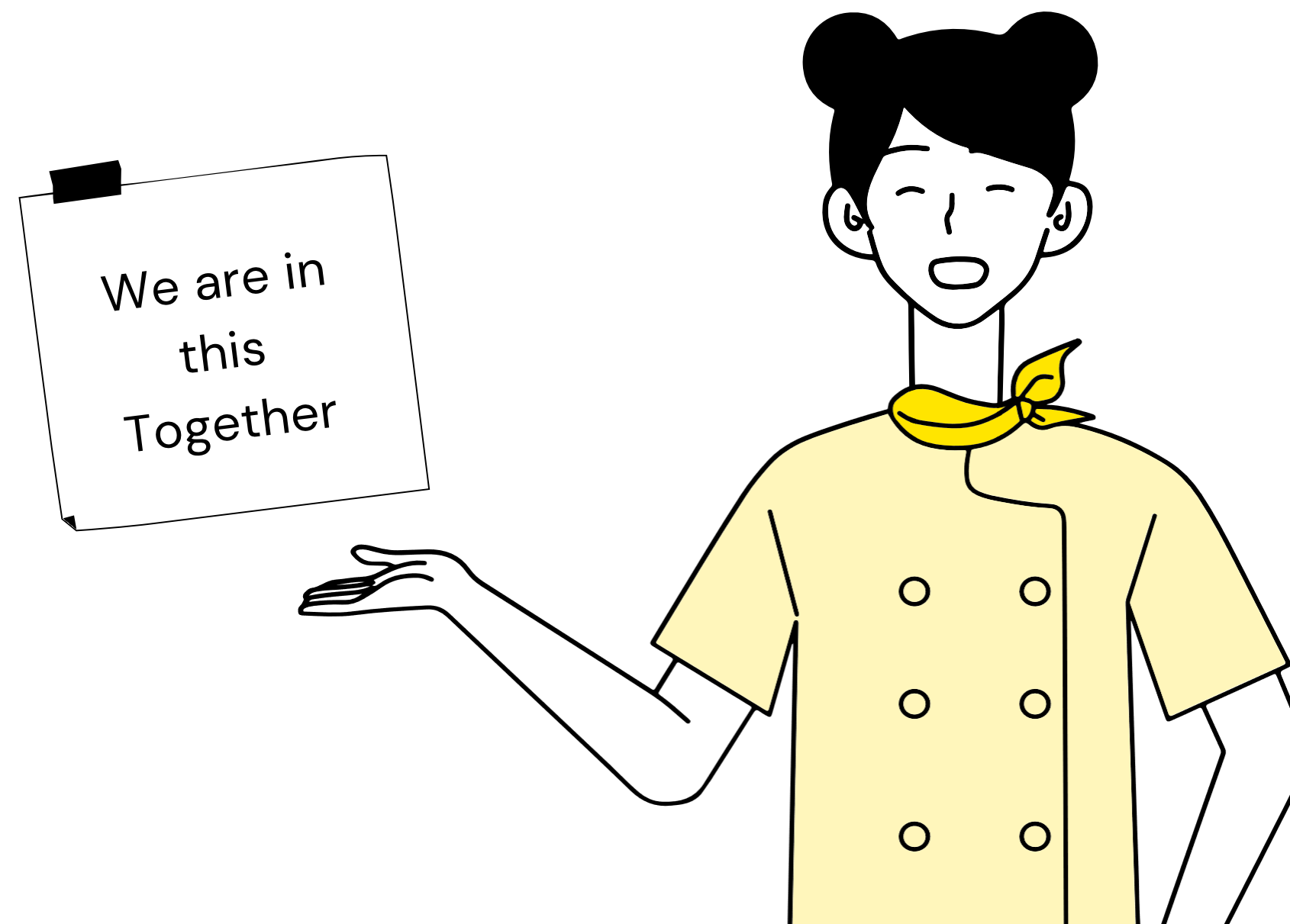
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**Death is not
the opposite
of life,
but a part
of it.**

Haruki Murakami

funeralOne

Thank you!



- FACT PATTERN FOR FISHBOWL ROLE PLAY-

Background information and first meeting with Advocate

1. Ranvir is 81 years old. He has Parkinsons. Ranvir has a wife (Nancy) whom he is separated from and they have two kids: Anna is 46 years old and Satya who is 41.
2. Ranvir's mental capacity is declining, he is quite anxious about updating his will.
3. Ranvir has a previous will where he names his brother Raj as his executor. This will be done shortly after Ranvir and Nancy separated.
4. Ranvir and Nancy still love each other and have recently started reconciling.
5. Ranvir own a home. He is the only one on Title. He also has some savings and registered investment accounts. It is unknown who the beneficiaries of the registered accounts are.
6. Initially Ranvir wanted to split everything he owned between his kids.
7. Ranvir likes to be in control, particularly of the finances, but his Parkinsons has left him feeling anxious and lacking control.
8. Ranvir's relationship with Raj has become strained as Raj seems to think that as an executor he is going to receive a large portion of Ranvir's lifetime savings.
9. Ranvir wants to leave everything to Nancy, whom he has recently reconciled with.
10. Neither Anna nor Satya are involved in Ranvir's life. They both live abroad.
11. Anna recently married someone Ranvir does not trust, he is worried that her new spouse will take his money if she inherits it.
12. Ranvir is fond of dogs and wants to leave something small for the BCSPCA.
13. Ranvir wants a lawyer to advise him but feels like it will cost too much. So, he sets up a meeting with a legal advocate to see what to do, so he has scheduled a video appointment with you. **MEETING DEMONSTRATION FROM VIEW OF ADVOCATE LENS**

During the appointment, you discussed Ranvir's situation. You advised him that you can't give him legal advice but there are some options he can explore (DIY Online wills, Mylaw BC Will, will done by notary)

Follow-up meeting with Ranvir

14. Having tried to resolve his issues, Ranvir became overwhelmed with the options and is not very computer savvy. Ranvir gives up and simply writes a letter and has it witnessed by two friends:

Dear World:

I can't sleep and am feeling anxious and depressed. I'm feeling more and more isolated and I can't handle this on my own.

I tried to do a will online but found it was too confusing for someone my age. Please note that this note is my last will and testament. My wishes are that I leave everything to my spouse, Nancy for her use exclusively.

I trust Nancy will do what is best for our children, therefore, I leave nothing to my children and everything to Nancy.

Signed, Ranvir Singh Dhillon

Witness #1 – Frank Decosta

Witness #2- Emily Jenkins

15.. Several months later, Ranvir passes away peacefully at home.

Question Discussion with Group

16. Is Nancy a spouse?

17. Is the declaration a valid will?

18. What happens to the old will?

19. What happens if Ranvir's brother, Raj contests the new "will"? Can he? Who else can contest the will if it is valid?

20. What will happen to the investments outside of the will?

21. Will there be probate in this situation? How will that process occur and what will it look like?

22. What is the estimated time that a file like this would take?

23. What capacity issues are there?

ADDITIONAL RESOURCES

Publications:

Learn how to order physical copies of our publications [here](#) for free.

- [Estate Administration on reserve](#) – a guide for executors and administrators in B.C.
- [Estate Administration on Reserve: templates package](#) – forms and sample letters to be used with the guide Estate Administration on Reserve

(Free) Online tools:

- MyLawBC website (mylawbc.com) – Contains guided pathways to [make a will and plan for your future care](#)

Videos:

- [Introduction to MyLawBC: Make a will](#) (8:26-14:14)

Additional Readings and Resources:

- [All about Wills](#) - People's Law School
- [Wills Registry](#) – file your will with Vital Statistics Agency
- [Estate services for First Nations](#) - Indigenous and Northern Affairs Canada (INAC)
- [Wills and Estate on reserve](#) –Aboriginal Legal Aid BC website