



March 6, 2025

Mr. Sean Gardiner
Manager, Consumer Policy Unit
Ministry of Public and Business Service Delivery and Procurement
56 Wellesley Street West – 6th Floor, Toronto, ON, M7A 1C1
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Dear Mr. Gardiner:

Re: Helping Governments Manage Effectively to Broaden Protections for Ontarians

We welcome enactment of the new *Consumer Protection Act* and regulations that will govern most personal and household transactions made by Ontarians. Here we respond to the final question in the 2024 “Consultation on Phase 1 Regulatory Proposals” asking for thoughts beyond the proposals’ scope. Our letter focusses on developing and implementing cost-effective solutions to make things as easy as possible for families and their executors as people ready for and cope with death. The current process for transferring in excess of \$1 trillion in wealth between generations this decade is messy. If people are unprepared, the well-being of not just Ontarians and their families today, but also those in the future, will suffer. This is not just an old-folks issue – it spans all ages.

More to do: The division of responsibilities within the Ontario government and between the Ontario and federal jurisdictions means that some recommended changes aren’t being surfaced or may become stalled. As well, there can be duplication and gaps in legislation and regulation. Most Ontarians care less about whose area is responsible and more about issues getting resolved.

The issues: Due especially to pressures from south of the border, Canadians are increasingly passionate about reducing internal trade barriers and improving how Canada operates. It is a chance, and it’s the time, to also solve non-trade problems that are insidious yet significant drains on productivity. Some of the following are traditionally part of your purview. Others are ones where Ontarians and all Canadians want government departments within and at different levels of government to work together to implement measurable improvements in consumer protection in a broad sense. By this we mean, in the case of this letter, issues related to preparing for later life inevitabilities and ultimately death (including reporting of deaths; increasing the number of people with powers of attorney and wills; improving the estate management process; ensuring creditors, tax authorities, and heirs/beneficiaries are paid what they are due; and promoting easier access to information) should be a priority (see attached for more detail). Death is hard enough to bear emotionally and, often, financially, but administrative issues associated with dealing with death are exhausting but fixable.

Why now? Baby boomers make up nearly a quarter of Canadians and aging baby boomers are already putting pressure on health and home care systems, as well as pension plans and income supports. Baby boomer deaths are increasing and large transfers of property are occurring in an increasingly complex legal, tax, and financial environment ill-prepared to cope with the onslaught of work.

Who benefits? The proposals will help older Ontarians and government officers serving them, as well as their executors, beneficiaries, and others including younger Canadians. As important, it will help younger generations because the survival of some families could change forever if proper steps are not taken now. Working holistically across generations is critical to achieving a better future for everyone. As one of our group said:

“Governments at all levels should be forward-thinking and -acting. These topics have a compounding effect for all ages and cultures. I truly was a ‘sandwich gen-er,’ buying diapers and incontinence undergarments at the same time, and visiting an aging relative with two young kids in tow. ... Now my kids are grown up, I’m also fearful of the overall costs of future accommodations and care... Comically speaking, I feel like I need to rent a retirement room now and sublet as the costs have more than doubled in some private/long-term/palliative-care retirement homes since 2016. If one spouse/partner needs to go into this type of facility, how will the costs be covered if their spouse and kids are living in the biggest asset they may have?”

This quote shows this is an issue for not just seniors but everyone, whether they are aware of it or not.

Affordable and achievable: The proposals appended here are clear, straightforward, and, we believe, possible under current law. We also think they can be implemented in the short term because they should attract cross-political party support and be cost-effective as immediate benefits should cover the costs of implementation and administration. Such proposals should be implemented across Canada. Having the largest population, and as a leader that most provinces and territories look to in order to set their own direction, the Ontario government is critical to making ground-breaking changes within the province and working with federal and provincial/territorial counterparts more broadly.

Next steps: We believe the issues we must address to protect consumers and help them protect themselves in the years leading up to death and beyond are compelling and complex, made more so by the traditional approach of dealing with social priorities in siloes. We recommend, and volunteer to be part of, a steering committee of volunteers from different disciplines to help make later-in-life decision-making and the bureaucracy of death – dealing with estates – easier. Such a steering committee engaging with different parts of the federal and provincial governments, financial institution operations people, estate lawyers, tax preparers, seniors’ spokespeople, and the tax authorities, and operating through existing organisations that have extensive expertise and ideas, will help us advance rapidly. Particular topics would be assigned to professional groups and other associations, with task forces including one or two representatives of other disciplines. Young and middle-age adults must be engaged as this is not a seniors’ issue: it affects all generations and we need to get it right given the fast-paced rate of change today and increasing societal pressures.

Conclusion: As another of our group has written:

“End-of-life planning helps reduce the stress of aging. It allows survivors be more financially and emotionally resilient. ... It takes immense pressure off the judicial system from otherwise dealing with so many unorganised estates and cumulatively bolsters the economy. It's a massive win for everyone, with no downside.”

For this reason, we would like to meet jointly with your staff and counterparts in other relevant ministries soon to discuss where we can work together to build on the passion we see these days to make non-

controversial advances that will make a positive difference for millions of Canadians – young and old – for years to come. We hope to follow up with you later this month.

Yours sincerely,

- Barb Amsden – Author of [*How to Laugh at Death and Taxes: What Executors, Willmakers, Heirs and Beneficiaries Need to Know*](#)
- Greg Barnsdale, CEA – Author of [*Do Not Ignore Your Mortality: Practical Advice from a Funeral & Financial Insider*](#)
- Michael Brooke – Founder of [*The Legacy Collective/Legacy Expo*](#)
- Paul Cutajar – Co-Founder of [*Senior Care Access*](#)
- Pat Dunwoody – [*Experienced Financial Services Executive*](#)
- David Edey, CEA – Author of [*Executor Help: How to Settle an Estate, Pick an Executor, and Avoid Family Fights*](#)
- Elizabeth Naumovski – Creator/Host of [*Empowered*](#) and Financial Literacy Expert
- Claudine Lukawesky – CEO, Stay at Home Parent
- Mark O’Farrell – CEO, [*The Canadian Institute of Certified Executor Advisors*](#)

Recommendations for making things easier for families and executors

- 1. Streamline delivery of notice of death:** Many funeral homes and other providers, as part of their services or for a price, notify the federal government of a person's death so federal payments can cease immediately rather than have to be returned by the deceased's estate. There is no central death registry and notice of death is not automatically made available to other parties making payments to or receiving payments from accounts of the deceased. This leads to extra work for families and executors and, possibly, the loss of money for beneficiaries, financial institutions, tax authorities, and other creditors. Some years ago, progress was made towards a solution (<https://nationalpost.com/news/canada/the-way-governments-learn-someone-has-died-is-getting-a-digital-makeover>), however, today – almost 10 years later – it seems that not enough has been done. As a recent example, a man didn't notify his mother's bank of her death, continued receiving RRIF payments into the joint convenience account he held with her and from which he withdrew, taking money from rightful co-beneficiaries.

Recommendation: Once a federal or provincial/territorial government department is notified of a death by a funeral home or other official party (with name, last address, birth date, and SIN), it should immediately alert credit rating agencies Equifax and Transunion, which should notify financial institutions using their services so that accounts can be frozen where appropriate or enquiries can be made. The relevant level of government could cancel passports/nexus cards/driver's licences/health cards and other pieces of identification that might otherwise be used for fraudulent purposes. **Costs:** This proposal should require minimal change by government and credit reporting agencies and so cost proportionally little relative to the benefits for Canadians and financial institutions in the form of declines in fraud losses.

- 2. Promote powers of attorney (PoAs) and wills:** There is no requirement for individuals to prepare a PoA for personal care or property (often needed long before a will is) or a will itself. However, having properly executed PoAs and wills (some basic ones are available for free, e.g., <https://stepstojustice.ca/guided-pathways/wills-and-powers-of-attorney-about/>) is almost always in the best interests of everyone: the person assigning the PoA or writing the will, those close to them, the medical professionals who may need to make decisions in an emergency that are not what an individual would really want, and the lawyers and government departments that may have to get involved.¹ Having to deal with someone who does not have a PoA and will in place can make a bad situation worse by adding to the costs, delays, and frustrations of everyone involved.

Recommendation: Federal and provincial governments should convey short messages about the value of PoAs and wills as part of current government communications to Canadians, such as with respect to renewing health cards, drivers' licenses, and passports, as well as tax-related and social payment notices. Material can be prepared for use by entities dealing regularly with individuals on health and care matters (doctors, pharmacies, social workers, etc.) as well as financial institutions. **Costs:** This is believed to be a relatively low-cost solution – preparation of material and agreement on method of distribution. Once material is prepared, professional and industry associations can help share information with their members to expand the reach of the material; an increase in the number of people with PoAs and wills will relieve pressure on provincial court systems and, likely, tax authorities as well as help families avoid unnecessary costs that can occur, for example, when a person dies without a will.

3. **Enable/prod executors to act:** Many people named as PoAs and executors (used here to include trustees, liquidators, and personal representatives) are family members with no experience or training in what is required. PoAs can be misused, through a lack of understanding or intentionally, and can be particularly insidious when resulting in financial elder abuse. In the case of executors, some know little and do nothing, not even notifying financial institutions of the death, and there is very little a beneficiary can do. After a certain period, beneficiaries can seek a passing of accounts, however, lawyers can charge \$3,000-\$5,000 or more to prepare the necessary forms and there is no guarantee of a result. The other alternative – taking the executor to court – costs even more, and is often cost-prohibitive for relatively small estates.

Recommendation: Provincial governments, ideally lawyers and financial institutions, and (in the case of executors) funeral providers, should identify/provide options for better ensuring that what a fiduciary standard means is understood and that the interests of people assigning powers of attorney, as well as willmaker wishes and beneficiary rights, are respected, for example:

- i. **Improve the understanding of a fiduciary standard for PoAs and executors:** There are legal requirements associated with having a power of attorney or being an executor of a will and these may well not be understood by the person appointed as POA or executor. A straightforward approach would be to promote the use of, for example, the Personal Fiduciary Certificate program (<https://thepfsi.com/>) – a two-hour online learning service designed for individuals acting in a fiduciary role such as those with health and property PoAs and executors. As the course is offered in 12 languages (and so useful not only to native-born citizens but also to new Canadians with different mother tongues), promoting use or awareness of this service is a quick win.
- ii. **Nudge negligent executors into action:** As an interim step before beneficiaries must seek a court order to require an executor to pass accounts, the Superior Court of Justice (responsible for receiving probate applications) should make available a one-page form that beneficiaries could complete and submit after some period (say 18 months following the willmaker's death) if there has been no meaningful communication or evidence that estate management is proceeding. The appropriate government official could attach the completed form to a letter to the identified executor saying that the Court had received notice of beneficiary concerns regarding the lack of communication and/or expected action and:
 - a. Providing links to information about the executor's role, sources of assistance, and typical estate settlement timing;
 - b. Requesting the executor to communicate with the beneficiary(ies) and/or take action to settle the estate;
 - c. Suggesting mediation/coaching and providing low-cost sources; and
 - d. Explaining next steps that beneficiaries may take (possibly seeking a mandatory passing of accounts) as well as the risks of not acting.

Costs: This recommendation will incur additional Court resources upfront (although a small administrative fee could be charged), however, on a net basis this should reduce/remove confusion, help beneficiaries, and likely reduce costs for and demands on the resources of the Court system overall.

4. **Materially reduce opportunity for financial identity theft:** Fraud and other scams have been made much easier with online banking and other technological advances; seniors can be particularly hard hit. Executors also must take extra care in monitoring the credit standing of even a deceased person,

as inappropriate use of a deceased's person's information may not be easy to detect.ⁱⁱ While this could be solved for executors if the recommendation in 1. above is enacted and executors are encouraged by fiduciary training (recommendation 2.) to check consumer reports, consumer reporting regulation changes (expected this year) could be expanded to include the following low-cost recommendations):

- i. Credit reporting agencies must be required to advise Canadians by text, phone, or email when:
 - They receive an enquiry (for credit purposes or not) about a person and/or
 - A change in personal information (e.g., address) is made.

Costs: As the technology already exists and is used by tech companies and financial institutions to generate a text, email, or call that an enquiry has been made on the person's account, incremental costs are expected to be low.

- ii. Companies seeking credit information must be required to go through a regulated financial institution or commit to provide, on account holder request, what information they have received that led them to make the unjustified enquiries.

Costs: A party found to have inappropriately sought information should be fined to help defray costs, and the names of parties that have committed abuses repeatedly should be published.

5. **Facilitate easier access to the right information at the right time:** The internet can be a huge time-saver but it can also be a time-waster and lead to incorrect information. Many people do not understand what issues are addressed by which level of government – federal, provincial, or municipal – and we can do a much better job of quickly connecting people with the information needed at the right time by creating a portal that people can trust to connect them with the options available for the help they need, whether at the federal, provincial, or municipal level.

Recommendation: Task organisations dealing with eldercare, elderlaw, and other support services to work with governments to create an easily searchable simple-to-use portal with a gatekeeper mechanism to enable one-stop shopping for official PoA, will, executor, etc. information. **Costs:** None to the extent volunteers develop the information and proposed layout; minimal government time or cost to review the content/format at set-up and contribute to keeping information on the portal current.

ⁱ The Ontario government writes: "You should consider having a power of attorney in place, regardless of your age or financial situation... If you do not have an attorney for personal care, your family can make some decisions, but not all... Without an attorney for property, your family, including your spouse, cannot automatically step in to make financial decisions for you. They might have to go to court to become your court-appointed guardian." A federal government website says: "Even if you don't have much money or property, it's still a good idea to have a will so you can name an executor and make it clear who you want making decisions after you die." A medical organisation recommends POAs for care be prepared to ensure individuals receive the kind of care they want, and encourages people coming to the hospital for care to bring a copy of their PoA with them.

ⁱⁱ Consumer reports also can alert executors to unknown debts or accounts.