

Memo

To: CBA Elder Law
From: Geoff White
Date: June 13, 2009
Re: Elder Law Developments in British Columbia 2008-2009

- BC Elder Law Clinic - www.bcceas.ca (under construction)
 - Almost one year of operation (by BC Centre for Elder Advocacy and Support)
 - Focus: vulnerable & abused elders (housing, long term care, benefits, financial abuse)
- CLE BC - Elder Law Clinic (May 1, 2009) - materials at www.cle.bc.ca
 - Contents: Family, Health Policy, Joint Tenancy, Ethics, Caregiving, Assisted Living, PoA Abuse, Patient's Property Act, Predatory Lending, Legal Services for Older Adults
- CLE BC - Elder Law Practice Manual (editing stage – due for release next year)
 - Proposed Contents: Elder Friendly Practice, Capacity, Guardianship, Housing, Abuse, Care Admission, Consent, Health Policy, Private Care, Personal Planning, U.S., Finances, Income Tax, Pensions, Family, Disability, Discrimination, Legal Process
- Canadian Center for Elder Law :
 - Canadian Conference on Elder Law (November 13, 2008)
 - Program details online soon - www.bcli.org/ccel/events/conferences
 - Publications:
 - Assisted Living: Past, Present and Future Legal Trends in Canada
 - Backgrounders: Family Caregiving, Vulnerability & Capacity, Guardianship Mediation, Legal Definitions of Abuse & Neglect
 - Enduring Powers Of Attorney: Areas For Reform Final Report
- Legislation:
 - *Bill 29: Adult Guardianship and Planning Statutes Amendment Act, 2007*
 - to reform Committeeship with modern Guardianship
 - Passed not yet proclaimed www.leg.bc.ca/38th3rd/3rd_read/gov29-3.htm
 - *Bill 28: Wills, Estates And Succession Act* (Bill 28) (unofficial copy at:
 - Comprehensive update of all succession law in BC
 - First Reading on April 15, 2008 www.leg.bc.ca/38th4th/1st_read/gov28-1.htm
 - *Patient Care Quality Review Board Act*, S.B.C. 2008, c. 35 (Bill 41)
 - Formal complaint process for patient care - In force October 31, 2008

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Re: Some Worst Nightmares in Elder Law Practice

1. Bob, age 76, arrives for an appointment that he scheduled. But he can't remember why. He has little focus, and loses his car keys twice. He is not sure where he is driving to next but insists that he should get back to his car to get there quickly. Do I let him go?
2. Mary was in good health at age 69 - until she had a heart attack in your office washroom. Anybody know CPR? ... and just where is that portable defibrillator?
3. Beth's second husband died leaving a hand-drawn will. Messy – and it's not just his penmanship. The step-kids are sure to make probate difficult, but at least as executrix she will have some control. The probate application is almost ready to go. However, she is now calling the office to advise that her papers “keep disappearing and re-appearing ... in the mattress of her bed”, and that her only child (a son who lives 1000 miles away) has been “writing himself cheques and cashing them at her local bank account.” Suddenly the messy probate is a messier capacity, and potential abuse, situation.
4. Vern, the 79 year old lifetime “gentleman” bachelor, has had a 33 year old female friend for a few years now. He has left her a significant gift in his Will and gives her monthly support for “school”. But “school” has now lasted more than 5 years, and he just recently complied with her request to pay \$30,000 for her friend's surgery (she said the friend needed the surgery for an injury at work). He never met the friend. Vern is very financially secure. He is also very fond of his friend – who he insists is “just a friend.” Vern is also still quite astute in business matters –driving hard bargains in arm's length investment deals. Vern's friend seems to be manipulating his generosity, but is it abuse? If it is, does Vern have the right to be abused?
5. Donna's son and daughter are having a nasty committee battle. The primary issue concerns her daughter's allegations of over-medication at the care facility. At the hearing, the court decides it needs more evidence, but does decide to appoint the son (who was a PoA) as interim committee of her property (but does not make an appoint in respect of her person). Shortly after the hearing Donna checks herself out of the facility to spend time at her daughter's home. Within hours of leaving, police officers show up with an order for involuntary committal under the Mental Health Act. They take Donna into custody and transport her back to the facility. The facility doctor who signed the order also imposes the “treatment conditions” that Donna may no longer have access to a phone and the daughter is prohibited from visiting. Donna's daughter calls to ask, “Can they really do this?”