

# Pending physician-assisted death legislation may change estate planning

In February, the Supreme Court of Canada, by a unanimous 9-0 decision, struck down the Criminal Code provision banning assisted death, on the grounds it was unconstitutional.

This ruling has opened the door for physician-assisted death for consenting, critically-ill adults, and has expanded end-of-life estate planning.

Federal and provincial governments were given 12 months, until Feb. 6, 2016, to respond to the ruling and, should they choose, formulate workable legislative options and regulatory frameworks for physician-assisted death.

Recently, I had the opportunity to listen to Justin de Vries, Oakville resident and principal at de Vries Litigation, as he pre-

Dollars & Sense

**Peter Watson**  
Guest Contributor



sented "The Power to Choose: Physician-Assisted Death."

His message was clear regarding estate planning: Have the conversation with your family, attorney, and doctor about your end-of-life wishes.

Currently, there are several aspects to estate planning.

## The basics of estate planning

Here are a few of the basics:

- A Will comes into effect after death and directs how you want your assets to be divided;
- A Power of Attorney has two different formats — A Power of Attorney for Property covers your financial affairs, while a Power of Attorney for Personal Care includes housing and healthcare.

Unlike your Will, a Power of Attorney is in effect during your lifetime, and allows the person you name to act on your behalf in financial matters, housing and medical treatments.

Delegating decision-making power to a person you trust is important if you become unable to make your wishes known due to a sudden stroke, accident or other medical reason.

If you do not have these three documents, we strongly recommend you seek legal advice.

## A Living Will

There is another document many know about but few have: a Living Will.

To be clear, a Living Will is not the same as a Power of Attorney or a Do Not Resuscitate (DNR).

In a Living Will, you write down specific details about what you want to happen if you become ill and can't communicate, but it doesn't include naming someone to act on your behalf, and it goes beyond the cardiopulmonary resuscitation of the DNR.

During the presentation, a recommendation was made to include your Living Will into your Power of Attorney for Personal

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# Watson predicts nationwide conversation on physician-assisted death

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Care, so your attorney clearly understands your end-of-life wishes.

For example, you may not want any medical heroics keeping you alive if there is no hope of recovery. In such a case, de Vries strongly recommended these wishes be as detailed and specific as possible.

## A controversial subject

Physician-assisted death is a controversial and emotionally-charged subject and many groups have strong and opposing opinions.

We currently have DNR orders, the right to refuse or withdraw treatment, the right to refuse food and drink. Physician-assisted death gives us an alternative to the usual last resort, palliative sedation.

Twenty years ago, Sue Rodriguez from British Columbia requested physician-assisted death and the Supreme Court ruled against her in a five-four decision.

Six years ago, Quebec began their debate on end-of-life and now has legislation in



Justin de Vries

place that offers physician-assisted death to terminally-ill patients.

During his presentation, de Vries correctly anticipated the new Liberal government

would request the court to grant an extension to the Feb. 6, 2016 deadline.

## More time needed to consider all sides

Days after his talk, the new Justice Minister Jody Wilson-Raybould asked the Supreme Court for a six-month extension, saying Parliament needed more time to consider all sides of the issue.

The extension will, in part, allow the new government to review the findings of the federal body of experts tasked to provide options for legislative reform, which

includes public opinion, and to look at the work Quebec has already done.

In the coming year, we predict a nationwide conversation on the right to choose physician-assisted death under certain circumstances.

We also predict the results of that conversation will see physician-assisted death become an option for all Canadians.

— Submitted by Peter Watson, MBA, CFP, R.F.P., CIM, FCSI, Certified Financial Planner



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