

Beyond the Clinic: Estate Planning Strategies for Physicians

Doctors of BC

Christopher Meyer | Lauren Liebowitz

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Get to know **us**.

Who **we** are.

For over 40 years we have been providing comprehensive legal services across a wide range of sectors. Our mid-size allows us to take an innovative, solutions-based approach to our client's unique problems.



DOWNTOWN VANCOUVER

1200 - 1075 West Georgia Street
Vancouver, BC V6E 3C9



WEST VANCOUVER

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Our services.

> Business Law

Commercial & Residential Real Estate, Commercial Lending, Real Estate Development & Construction, International Banking, Immigration, Aboriginal law, Incorporation & Business Structuring, Reorganization & Restructurings, Conveyancing

> Workplace Law

Benefits & Leaves, Business Reorganization, Employment Contracts & Policies, Employment Litigation, Employment Standards, Human Resources, Long Term Disability Claims, Privacy & Freedom of Information, Workplace Investigations, WorkSafe

> Family Law

Divorce, Family Property Division, Family Mediation & Arbitration, Parenting & Custody

> Litigation & Dispute Resolution

Business Disputes, Construction Litigation, Corporate & Shareholder Litigation, Debt Collection & Creditors' Remedies, Fraud & Asset Recovery, Insolvency & Restructuring, Mediation, Arbitration & Dispute Resolution, Professional Liability, Real Estate Litigation, Securities Litigation, Transportation

> Wills, Estates & Trusts

Committeeship Applications, Estate Litigation, Estate Planning & Probate, Power of Attorney, Representation Agreements, Trusts & Disability Trusts, Wills

> Personal Injury

Accidents (Plane, Recreational, Slips & Falls, Wrongful Death, Product Liability), Injuries (Chronic Pain, Fractures, Traumatic Brain Injury, Orthopedic, Psychological & Psychiatric)

A man and a woman in business attire are walking past a building. The man is in the foreground, looking slightly to the right. The woman is behind him, looking towards the camera. They are both smiling. The background is a building with a plaque that reads "WATSON GOEPFEL".

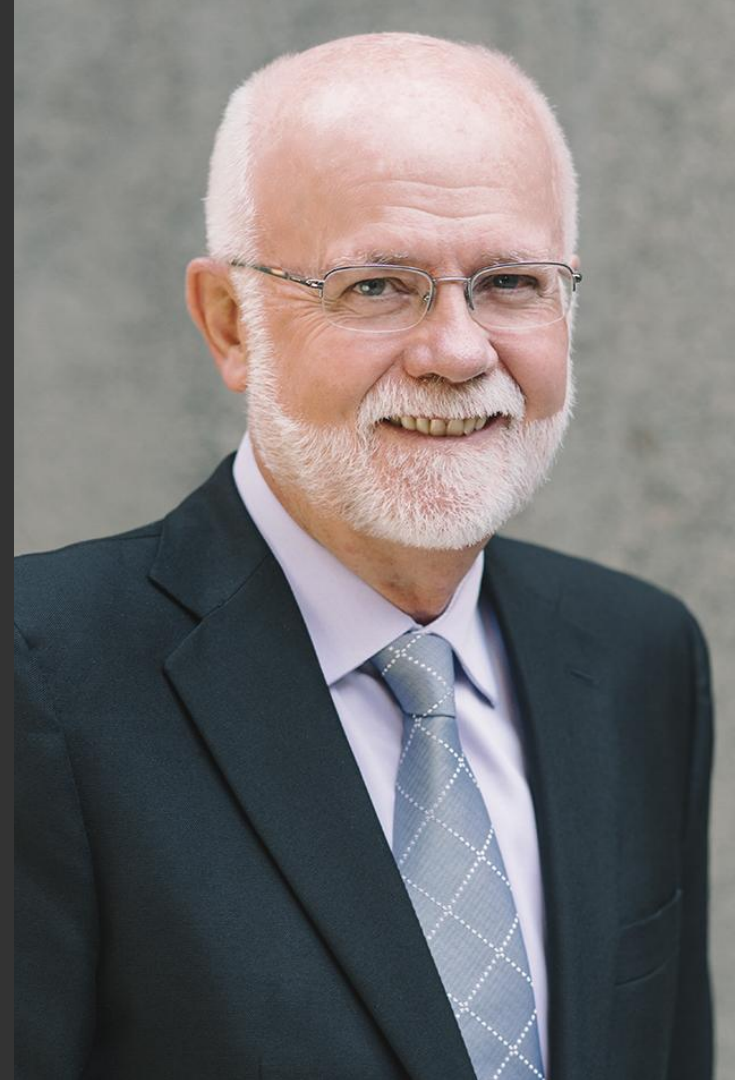
Our people.

Our thoughtful team of legal professionals will be your advocates through every stage of the process. They pride themselves on providing strategic and straightforward legal advice.

Christopher Meyer

PARTNER, WILLS & ESTATES

- Over 50 years of experience
- Recognized in *Best Lawyers® in Canada*, 2025
- Works in all aspects of wills, estates & trusts from committeeship applications, estate planning & probate, power of attorney, representation agreements, trusts & disability trusts, wills



Lauren Liebowitz

ASSOCIATE, WILLS & ESTATES | FAMILY

- Combined experience in family law and wills & estates.
- Experience in estate planning and probate matters, applications for committeeship and uncontested estate applications, in addition to family law matters such as drafting of agreements, parenting disputes, and family law and estate mediation.



Agenda

- 01** Incapacity Planning
 - 02** Wills
 - 03** Trusts
 - 04** Family Law and Estate Planning
 - 05** Estate Litigation
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Incapacity Planning

Everyone needs documents in place to manage their business and personal affairs in the event of accident, injury or incapacity, **while alive**.

Power of Attorney (“*POA*”)

- **What** is a POA and what can it do for you?
- **Who** can you trust to manage your business affairs?
 - Family member
 - Professional Trustee
- **What** level of authority do they need?
- **What** happens if you are incapacitated and do not have a POA?

Healthcare Representation Agreement (“*HRA*”)

- **Why** should you have an HRA?
- **Who** can you trust to make healthcare decisions in your best interests? What level of authority do they need?
- **What** happens if you are incapacitated and do not have a HRA.
- **What** constitutes a valid HRA?

Wills

Wills

- **What** is a **WILL** and what can it do for you?
- **Why** should you have a Will? (With a will, there is a way...)
 - Choosing your executor
 - Naming guardians for your minor children
 - Naming beneficiaries
 - Testamentary Trusts such as Henson Trusts
 - Life Estates
 - Separation/Divorce
 - Philanthropy / Charitable donations

Restricted and Secondary Wills

- **Benefits:**

- Transmit corporate shares to beneficiaries without probate
- Continuation of an active business despite the death of the principal

- **Considerations:**

- Cost of preparation and administration
- Choosing your executor
- Must be distinct from the probate will
- Value of your corporate assets might not warrant a secondary will

Probate Planning

- Consider which assets form part of your estate for probate, and which assets are excluded:
 - Joint tenancies
 - Registered investments
 - Life insurance and other segregated funds
 - Talk to your financial planner!

Trusts

Family Trust

- **Benefits:**
 - Ideal for an active business interest
 - Allow successor generations to benefit from business growth
 - Freeze the business owner shares when appropriate for tax planning purposes
- **Considerations:**
 - 21 year deemed disposition
 - Choosing trustees and successor trustees
 - Talk to your accountant!
 - Cost of preparation and advice from lawyer and accountant
 - Annual tax filing requirement

Alter Ego Trust

- **Benefits:**
 - Will alternative
 - Private
 - Avoid will variation
 - Deemed disposition at date of death, not 21 years
- **Considerations:**
 - 65 or older
 - Choosing a successor trustee or protector (incapacity planning)
 - PTT not exempt on property transfer
 - Annual tax filing requirement & cost of preparation

Joint Partner (Spousal) Trust

- Will alternative
- Private
- Avoid will variation claims
- Deemed disposition at the date of death of the surviving spouse
- Planned distribution between children and step-children
- Planned life interests for spouses in principal residence
- Consider cost of preparation & annual tax filing requirement

The intersection of Family Law and Estate Planning

With an increase of **blended families**, it is especially important to prepare a will that is fair and enforceable to ensure that both children, and new spouses are properly provided for.

Marriage and/or Cohabitation Agreements are also an important tool for effective estate planning.

Estate Litigation

Estate Litigation Claims

1. Validity of the Will or Testamentary Document
 2. Wills Variation Claims
 3. Transfer of Assets Prior to Death
 4. Disputes Regarding Executors
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Validity of the Will

The Validity of a Will or Testamentary Document can be challenged if:

- The will or document does not meet the formal requirements under *WESA* (e.g. not signed, not witnessed properly)
- The document containing the testator's wishes is not a will at all (e.g. a letter, an email, or instructions to a lawyer)
- If there are concerns about capacity or undue influence.

Considerations:

- If the will or other document does not meet the formal requirements it generally cannot be admitted to probate without a court application - this will create more work and cost more money.
- On such an application, the court will have to find and accept that the will/document represents the deceased's final intentions.
- If the capacity of the testator is an issue, it is advisable to seek a medical opinion prior to preparing a will.
- It is important to note that if a will is declared invalid, the estate will be distributed according to the intestacy rules under *WESA* (unless there is a prior will)

Wills Variation Claims

- **Who** can vary a will?
 - Spouses
 - Naturally born or legally adopted children
- **Why** would a claim for a wills variation be pursued?
 - Unequal distribution
 - Unfair distribution
 - Moral and legal responsibility to support dependants
 - Lack of capacity
 - Undue Influence
- **How** can this be avoided?

Asset Transfers Prior to Death

- If a deceased transfers assets prior to death without consideration, this can be challenged based on the presumption of resulting trust.
- However, if the transfer was made to an adult independent child, the court will presume that a resulting trust arises (meaning that the child holds the property in trust for the estate).
- Assets are often transferred prior to death to avoid estate taxes, avoid wills variation claims, or simply estate administration - e.g. putting a child on title to a property as a joint tenant, or adding a child to a joint bank account.
- If a transfer is challenged, and the resulting trust claim is successful, the property will revert to the estate and be distributed according to the will or intestacy rules (if no will).
- **How** can this be avoided?
 - By preparing documents that make it clear that is is your intention to gift the beneficial interest in the asset to your child
 - Lawyers can prepare a deed or gift or a statutory declaration setting out the person's intentions.

Disputes Regarding Executors

- **Disputes** sometimes arise regarding the conduct of executors. These can arise due to:
 - Delays in administration
 - Mismanagement of assets
 - Failing to provide information or accounting
 - Conflict of interest
- **How** can disputes be avoided?
 - Try to name someone who is neutral (i.e. not a beneficiary)
 - Try to have an alternate executor in case the primary executor dies, becomes incapable, or does not want the job anymore
 - Try to name someone who is competent and is going to take the job seriously.

Disputes Regarding Executors cont'd...

- Disputes can also be avoided by naming a professional as an executor (such as a lawyer, accountant, or trust professional), but they may be entitled to charge fees for professional services.
- If a dispute arises, the beneficiaries can bring an application to have the executor removed or replaced.
- The court will determine if the executor acted improperly or has a conflict and then determine who an appropriate replacement is.
- If no individual is interested, often a private trust company will be named as administrator; the Public Guardian & Trustee (the PGT) is possible if no one is willing.

Why **us**?

The size of our firm allows us to provide personalized service, and gives us the agility to respond quickly and creatively to your needs. We help navigate any legal matter seamlessly, delivering impactful results and transforming problems into solutions.

Any questions?



Thank you



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