

Dying Intestate

We'll get around to it one of these days. There's no rush. We're relatively young and have all the time in the world.

According to LawPRO, 56 per cent of Canadians die without a will.

The reasons do go beyond procrastination. Some are concerned about cost and the process of setting one up. Some who are married assume (wrongly) that all the assets will automatically pass to the surviving spouse so why bother with the hassle of drawing up an official document?

Some just can't decide who would make the most appropriate guardians for their kids, or figure out how to divvy up their assets without possibly upsetting loved ones.

Still, others may think, "Who cares? I'll be gone anyway and my loved ones will figure things out just fine without me."

Let's examine how that last line of thinking works out in real life. I sit on a hospital committee and one of our board members recently rejoined the committee after a bereavement leave. Her brother had passed away suddenly at age 46. He had no will. He had a common-law partner, but no children. He had a new house.

Having no will, of course, meant no executor, so family members had to go to court to have an administrator appointed to his estate. But the court, not the deceased or family, is who ultimately decides the best person for the administrator role.

And chances are, the deceased's intentions for his assets will not work out as planned. In this instance, the common-law partner didn't end up inheriting his house, a family member did. That's because the common-law partner wasn't listed as a co-owner of the house and the deceased had no will stating his intentions.

Going through the estate process taught my fellow board member to have a will and make sure her family knows where to actually find it. She moved quickly to set up her own will.

Dying intestate also happens among the



wealthy. Take the musician Prince, whose net worth was estimated at US\$300 million. Incredulously, he left no will — well, at least none that could be located. His survivors include a sister and five living half-siblings, all of whom are treated the same according to his state's law. It's likely the estate will be divided six ways, and as you might expect, some opportunists are presenting themselves, trying to prove they were Prince's love child or long-lost sibling.

Without a doubt, Prince received advice about estate planning. But he either never got around to it, or may have had his business ventures set up in such a way that he felt a will wasn't necessary.

Extreme fans like myself know Prince shunned YouTube and other music sharing services. He was obsessive about maintaining complete control of his song catalogue. Now he's gone, and all of a sudden, one of his songs is featured on an episode of the TV show *Grey's Anatomy*. Since he had no will, his estate decided to grant the TV producer's request to use the song. Is this something Prince would have wanted? Did he care what happened after his death? We'll never know.

The takeaway for you is to ensure your clients' estate planning documents are complete and updated. Their heirs will thank you for it. ●