

It's In Your Hands:

Legal Information for Seniors and their Families

ENGLISH VIDEO TRANSCRIPTS



Video Scripts by Julien Matte

Introduction

Welcome to the IYH Video Series, an introduction to LISNS' *It's In Your Hands Guide: Legal Information for Seniors and their Families.*

Each video in this series will introduce you to the right people, tools, and resources to plan for the kinds of events and life changes that often occur in our later years. Some of these events may be inevitable, and some are more unpredictable.

By knowing what tools exist and how to assess them you can build resilience and a sense of security for yourself, and everyone who matters to you.

Your entire community plays a role in your wellbeing, including those whom you designate as helpers when you are no longer able to make all the necessary decisions for yourself. Whether it is formal legal documents that designate who will assist you in making health care decisions, or in how your property will be divided, or if it is protecting yourself against the unscrupulous, each video addresses an important topic: planning ahead and protecting yourself.

Not all challenging events can be avoided but, with the right plan, using the available resources and knowing where to turn when the unpredictable happens, you can find peace of mind and build a safety net for you and your family.

The videos are designed to give you a sense of the issues, tools and supports available, and point you to the Guide, which is full of information and resources to help answer all of your questions.

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Abuse (Chapter A – Abuse of Older Adults)

When it comes to ensuring a bright future, planning to protect starts with the IYH Guide.

Falling victim to abuse is a painful experience. It can happen to anyone. An abuser can be anyone from a caregiver hired to meet your day to day needs, an advisor dealing with your finances, and sadly, even a family member. In all cases, it is a person that abuses a trust given to them.

Although all the planning in the world cannot prevent all incidents of abuse, there are steps you can take to protect yourself. Fortunately, you are not alone. If you become a victim of abuse, there are people ready to assist you in reducing your chances that it will happen.

Abuse can be motivated by financial gain. An abuser might use their position of influence to steal from you. Using legal tools such as a Power of Attorney, can put in place layers of protection to manage and monitor your finances. Making decisions thoughtfully, and having someone to discuss them with is also a good idea.

In recognition that despite our best efforts, abuse still happens, there are government lawyers and social workers that can assist too. Adult Protection Services steps in where abuse can only be addressed by enforcing the applicable laws. This may involve intervention by a social worker or a complaint to the police. At other times, lawyers can obtain court orders to assist someone in need of protection.

Preventing abuse starts at home, well before someone becomes vulnerable due to physical or mental limitations. You can ensure that all financial and practical arrangements are put into place and known by your family. Where the unexpected happens, reaching out to services available is key to reducing your stress and to continuing a long and healthy life.

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Capacity (Chapter B – Adult Capacity and Decision Making)

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Fortunately for many of us, a “senior’s moment”, is just that, momentary. However, normal events like forgetting where you put your keys, or parked your car, can sometimes grow in frequency and severity. In some cases, where you can’t understand information to make decisions or how those decisions affect you, you may be losing the legal capacity to make them for yourself.

Losing capacity can happen suddenly -if you fall into a coma after a car accident, or gradually due to a degenerative disease such as dementia or Alzheimer’s. As soon as you suspect that you might be having more trouble than usual with memory or your ability to think, it’s important to talk to your doctor to get advice on things like nutrition, exercise, and medication. These and other supports can help you to age well in the face of such challenges.

However, it is also important to plan for the day when you will need help to make decisions that impact your life. Fortunately, there are legal documents you can make to appoint supporters to assist you and carry out your instructions in the future, while you still have the ability to do so. These include Enduring Powers of Attorney, Personal Directives, Trusts and Wills.

If it happens that you lose capacity to make decisions before making arrangements, a person can apply to the Court to be your Representative. If there is no one able to apply to the Court, the Public Trustee can step in. The Public Trustee follows the same guidance in decision-making that a Representative would. This means that they follow clear instructions given while you still had capacity to do so as found in planning documents, current wishes if they are reasonable, anything that promotes and protects your well-being.

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Dating (Chapter C – Dating and New Relationships)

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The world has changed but meeting someone still starts with a smile or.... an emoji. Although how we initially connect has changed, good conversation is still the gold standard for long-lasting connections. There are new and evolving ways that people can meet, whether sitting across from each other or on a computer screen, kilometers apart.

While wisdom can act as a shortcut around the mistakes of youth, understanding some of the pitfalls of modern technology can help safeguard from the unscrupulous. Dating online can be an efficient way to hone in on the right person, sort of like scanning the room at the annual ice cream social at your local fire hall. However, the traditional protections such as local reputation in community, may be lost online, where suitors can more easily hide behind curated profiles.

It is important that no matter the strength of a connection made online, when meeting someone for the first time, all the same precautions from a more traditional courtship should be followed. Meeting in a public place is key. Have a plan to leave if things don't go as you'd hoped, and don't travel in the same vehicle together. Make sure to tell someone where and when you are meeting your date. Give yourself a chance to build the relationship in person even if you've known each other online for some time.

If your relationship progresses, you may consider new living arrangements. It is important to ensure that you make clear and conscious decisions about your property. Each situation is different but leaving important decisions to chance is never a good idea. There are many ways to ensure your wishes are carried out in a safe and thoughtful way.

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Grandparents (Chapter D – Grandparents and Grandchildren)

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Generally the role of a grandparent is to spoil their grandchildren and watch their own children take up the duties of parenting. For most families, this is the natural order of things. Though in some cases, conflict can upend this expected order. Where parents are caught up in conflict, grandparents can be a safe haven for children to continue to be cared for in their loving embrace.

Sometimes, parents cannot agree about their parents' involvement in their children's lives. In such cases, grandparents do not have an automatic right to have access to, or make decisions about, their grand-children. By using supports like family counsellors, or lawyers that focus on collaborative family law, it may be possible for the families to come to an agreement about the grandparents' roles.

If all else fails, grandparents can ask the Court to intervene. When it is in the best interests of the child, grandparents can apply to court for contact time. In cases where there is abuse or neglect, grandparents may become involved as part of a child protection proceeding to determine what is in the best interest of the children.

Grandparents can play an important role in their grandchildren's lives, whether that involves cheering from the sidelines, as part of a team, or as a way to help their own children through difficult times.

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Health (Chapter E – Health and Other Personal Care Decisions)

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When illness or injury happens it is often a distressing experience for you and for your loved ones particularly when an event leaves you unable to communicate decisions for yourself, those around are left to struggle with the impact. For loved ones navigating the health care system, it adds additional stress if they don't know your prior wishes for treatment. You can relieve this burden by writing them down

A Personal Directive is a simple way for you to give proper direction and clarity to those trying to care for your health in your moment of need. A Personal Directive allows the person you name, called a delegate, to share with caregivers and medical professionals your wishes for the kind of care and health treatments you choose, when you are not able to make those decisions yourself. A personal directive is one of the greatest gifts you can give yourself and those who care about you.

It is important to choose someone to be your delegate who knows your health issues and personal care wishes, like your spouse or another close family member or friend. Once you have a Personal Directive, make sure that your delegate, doctor, specialist, caregivers and anyone else who might provide care has a copy of the document.

Your Personal Directive will only be used if you no longer have the ability to make and communicate health related decisions yourself. Up until you lose the capacity to do so, you can communicate those decisions yourself and change your delegate if you choose. Your delegate does not have more power to direct your medical care than you do.

Personal Directives can add certainty and comfort at a time when it is most needed. For more information, check out the guide.

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Funeral (Chapter F – Planning Your Funeral)

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There are few certainties in life other than the knowledge that it will come to an end. When that time comes, your loved ones will be left to grieve your passing and celebrate your life. While your death is inevitable, putting a plan in place will ease the burden on those left behind. A funeral is both a way to ensure your remains are treated with respect and in accordance with our laws, and an opportunity for those whose lives you touched to pay their final respects.

In Nova Scotia, while there are no regulations on how your loved ones may celebrate your life, how your remains can be dealt with are prescribed by law. Making and paying for funeral arrangements ahead of time can ease the emotional and financial burden on your loved ones, and allow them to focus on the moment of your passing. Whatever option you choose, you can let it be known by leaving a letter to the executor of your estate, your spouse, a child, or a good friend.

However you choose to navigate such a time of transition, know that there are processes in place to make sure that your final decisions are followed and the meaning you wish to communicate is shared by those who care about you, and whom you leave behind.

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Power of Attorney (Chapter G – Power of Attorney)

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A Power of Attorney, often called a POA, is a legal tool that gives you the ability to appoint an person to act on your behalf for financial and property decisions. That person does not have to be a lawyer, but is called an attorney. Having a POA can be helpful if you have mobility issues and can't get to a bank or you want to rely on a loved one for investment decisions. When you appoint someone as your attorney, you maintain your right to continue making financial and property decisions and can revoke the attorney at any time.

If you lose your capacity, your attorney can only continue to act if you have given them an Enduring POA. An Enduring POA is one that contains a provision that grants the attorney powers that endure or survive your incapacity. A person with this power can continue to make those decisions even if you can no longer make them for yourself. Giving an Enduring POA to someone carries risks because they can deal with your finances and property after you no longer have the ability to ask questions.

However, you can ensure that any decisions made on your behalf under a POA can be scrutinized by others by appointing a monitor. If a monitor suspects that your attorney is not living up to their obligations, the monitor has a wide range of options, up to and including having a Court review the attorney's actions. Choosing the right attorney and monitor will give you the needed peace of mind to focus on enjoying your golden years.

An Enduring POA usually comes into force as soon as it is signed. However, you can include clauses that make a POA spring into force at a specified time or when a particular event happens. This can give you the flexibility to decide exactly when to rely on others to make important decisions.

If you do not grant an Enduring POA while you still have capacity, your loved ones will have to apply to the Court to have someone named to take care of your financial affairs while you are alive. If no one can apply to act as your representative, the Public Trustee may step in.

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Public Trustee (Chapter H – Public Trustee)

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If you outlive everyone around you, you may have to rely on the Public Trustee to ensure that you are taken care of when you cannot care for yourself, and that your affairs are handled, after your passing. The Office of the Public Trustee is a group of dedicated public servants tasked with ensuring that those without a voice can be heard. The Public Trustee can manage a person's financial and property affairs and act as decision maker of last resort for health care decisions for those who can no longer make those decisions for themselves.

The Public Trustee can also act as a guardian of a child's finances and property. The Public Trustee may act as a trustee for the minor's property if the child is entitled to money from an insurance payout, legal settlement or inheritance.

The Public Trustee can help by giving others, consent for bringing matters before courts or other processes. For example if someone passes without a will, the Public Trustee may be called to assist if needed. It is not the role of the Public Trustee to investigate financial abuse of a vulnerable person or to mediate dispute family disputes. Where abuse is suspected, Adult Protection or the police should be contacted.

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Fraud, Scams (Chapter I – Scams, Identity Theft and Other Fraud)

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No matter our age or background, anyone can fall victim to scams or fraud at any time. With the rapidly changing internet landscape and with advances in technology, it can be hard to keep up with the latest ways to keep ourselves safe. What at first glance appears legitimate with through emails, texts, our phones, or even through websites can be an attempt to defraud.

When it comes to electronic data, follow the suggested templates for having strong passwords, and keep them safe, either electronically or recorded in a place that only you have access to. Follow the protocols suggested by experts about upgrading your security for your electronic devices as needed.

Do not share your financial information with anyone other than those people you have known for a long time and trust. Do not share your passwords with anyone. Know how your financial institutions or government agencies communicate with you and be suspicious of any request for sensitive information such as pin codes or account numbers. Before you send money or sensitive information call your financial institution and double check.

Online shopping is a reality of today's commerce. Using credit cards online has become the norm. Make sure you understand your credit card's policy on fraud. If a deal or website looks too good to be true, it is. Being cautious about online purchases and investment schemes will go a long way in protecting you from becoming a victim of fraud.

If an act of fraud does happen to you, contact your financial institutions to ensure your accounts are frozen and no other funds can be taken. Report the fraud to the police for investigation and ask for a copy of their report. You will also want to take steps to ensure that your identity is not stolen. Check with your credit card company to determine their policies on recovering stolen funds, and setting up credit monitoring to safeguard against future abuse.

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Wills (Chapter J – Wills)

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A Will is an expression of your wishes for what to do with your property after you die. Your will can generally be changed at any time if you have legal capacity to do so. If you ever change your mind about your will, you can follow the legal requirements for creating a new will and your previous will is automatically revoked. Your will is revoked if you marry, you make a new will, or you destroy the original will.

You must be 19 to make a valid will. Those under 19 cannot make wills under most circumstances. A will must nominate an executor, a person to carry out your wishes after you pass. You must sign your will at the end of the document in front of two witnesses at the same time.

Where a valid will is created, an executor will probate the will after your passing. This means that the Court will consider whether the will meets the legal requirements, and if it does, the wishes expressed in it will be carried out in accordance with the law. Your executor will gather all of your property, pay off debts and taxes, before distributing what remains among the beneficiaries in your will.

If you wish to provide for family, friends or charities after you die then a will is important. A will can be drafted by yourself or with the help of a lawyer, depending on the complexity of your estate. A lawyer can identify considerations that might not be apparent from many of the “do it yourself” options.

Where you pass without a will, there is a parallel process called administration. Common law spouses are not included as beneficiaries under administration or eligible to apply to administer their common law spouse’s estates. You can create a holographic will by writing your wishes and signing at the bottom in your own handwriting. This is not a will but can be considered by a Court reviewing your estate as part of the administration.

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Conclusion

When it comes to ensuring a bright future, planning to protect starts with the IYH Guide.

Even as we progress and become skilled at navigating obstacles and by leaning from our gained wisdom, we are never too old to reach out for guidance.

Knowing where to look.. at the right moment... is priceless.

After viewing the IYH videos, if you still have questions, look to the Guide and related LISNS Apps to help you with any issues you may face in a timely manner. By fine tuning and updating your knowledge in the areas affecting your life, from finances, estate planning, dating and the risks of abuse, you ensure that these years are truly golden.

Community is key. There are people all around you that are ready to lend a hand, from your loved ones to help when you can't help yourself, to professionals to ensure your wishes are recorded in accordance to the law to having your granddaughter explain the latest online lingo, each plays an important part.

You can't always predict everything but enjoying the warm kiss of the sun without worry starts with planning; an umbrella and a generous dollop of sunscreen.

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