

# WHAT DO THE WORDS MEAN?

conciliation

scam

proxy

abuse

probate

delegate

revoke

fraud

contact

trustee

capacity

LEGAL INFO<sup>i</sup>  
NOVA SCOTIA



## WHAT DO THE WORDS MEAN?

- abuse:** any act or neglect to act which threatens the health, security, or well-being of a person.
- access:** An old legal term which recognizes the right of and benefit to a child to spend time with an individual such as a parent who is not living with the child. The word access is no longer used in Nova Scotia or federal family law legislation. See *contact, interaction, parenting time*.
- access order:** a court order that provides for contact between a dependent and the person applying for contact, such as visits, phone calls, emails, mail. The word access is no longer used in Nova Scotia or federal family law legislation. See *contact, interaction, parenting time*.
- account:** the act of proving what one has done to meet one's responsibilities
- administrator:** the person appointed by the court to fill a role, e.g. the role of executor if none was named in the will of a deceased person
- adult:** in Nova Scotia, the age of adulthood is 19. It is also called the age of majority.
- Adult Capacity and Decision-making Act:** the Nova Scotia law that allows a judge to appoint a representative for an adult who cannot make some or all of their own decisions.
- affidavit:** a legal statement that is sworn before a Commissioner of Oaths or a Notary Public
- affidavit of execution:** a statement sworn by a witness about the signing of a document
- assessor:** a doctor or psychologist has the power to assess an adult's capacity under the Adult Capacity and Decision-making Act: With training, an occupational therapist, nurse, social worker, or other qualified health care professional can assess capacity.
- asset:** A legal term for property. This can mean anything of value, such as a house, vehicle, or bank account.
- assisted suicide:** the act of intentionally killing oneself with the help of another person
- attorney:** the person who receives the authority to act on another's behalf. This person is not necessarily a lawyer
- beneficiary:** a person who receives property through a will as an inheritance. The plural is beneficiaries. Also called an heir.
- bond:** a type of insurance policy
- capacity:** to be competent to perform a specific task, such as agreeing to a medical procedure. Also see testamentary capacity.
- capacity assessment:** testing by a health care professional (assessor) to find out if a person has the ability to make important decisions on their own.
- capacity assessment report:** a report by a health care professional (assessor) to explain whether an adult can make important decisions on their own. The report may also include information from other sources, like family and friends.
- clause:** one section of a legal document, for example, of a will

## WHAT DO THE WORDS MEAN?

**codicil:** a legal document written to change part of an existing will

**cohabitation agreement:** a written agreement between a couple who are living or plan to live together which sets out their rights and responsibilities to one another

**Commissioner of Oaths:** an officer who has the authority to administer oaths on legal documents

**common law partner:** a person in an unregistered live-in relationship with a partner of the same or opposite sex. See *common law relationship*.

**common law relationship:** an unregistered live-in relationship with a partner of the same or opposite sex

**competent:** a legal term which means to be of sound mind and able to make reasonable decisions. Also see *incompetent person*

**conciliation:** a process in family court for negotiating a parenting arrangement between two parties with assistance from a conciliator talking to the parties separately

**consent:** Before engaging in sexual activity with someone, the law requires that you take reasonable steps to be sure the other person agrees freely and voluntarily

**consent order:** the name of the agreement reached between two parties when the issue is resolved using mediation or conciliation

**consumer fraud:** the intentional deception of a person who buys something

**contact:** the time a child spends with someone other than their parent or guardian because of a court order or agreement. This can be a grandparent, or anyone else who is close to the child. See *access, parenting time*.

**custodian:** a person who has legal care and control of property that belongs to someone else

**custody:** the care and control of a child. Also see *decision-making responsibility*.

**cyberbullying:** when someone uses electronic communication, like email, text messaging, or social media, to harm your health or well-being.

**decision-making responsibility:** under the Divorce Act, describes who is responsible to make significant decisions for a child, and/or how decisions will be made. This has traditionally been called 'custody'. The Divorce Act no longer uses the word custody.

**delegate:** the person legally authorized to make decisions for another person. Also informally called a proxy.

**dependent:** a person whom another person is under a legal obligation to support, such as a spouse or a child under age 19

**domestic partnership:** see registered domestic partnership

## WHAT DO THE WORDS MEAN?

**donor:** the person giving someone else the authority to act on the person's behalf in a power of attorney document

**elder abuse:** see senior abuse

**enduring power of attorney:** a legal document which authorizes a person, called an attorney, or company to act on behalf of another person, in financial and property matters even if the person becomes mentally incapacitated or incompetent. One type of power of attorney.

**enforcement order:** a particular kind of court order which gives the police the power to enforce a contact order

**estate:** all of the property owned by a deceased person when they die

**euthanasia:** an act taken by one person to end the life of another to relieve that person's suffering

**execution:** the formal signing of a legal document

**executor:** the person named in the will of a person who has died, responsible for seeing that everything is handled properly

**fraud:** intentional deception. Also called a scam.

**fraudster:** a person who commits a fraud

**general power of attorney:** a power of attorney that gives your full authority to your attorney. Ends if you become mentally incompetent.

**guardian:** a person who had applied to the court for guardianship of an adult under the old Incompetent Persons Act. Now considered to be a representative under the new Adult Capacity and Decision-making Act. A guardian made all decisions for an adult under their care; a representative makes only the decisions the adult cannot make.

**holograph will:** a handwritten will signed and written by the testator but not witnessed

**identity theft:** the illegal act of using personal information, for example personal identification numbers or Social Insurance Numbers, to steal from a person

**incompetent person:** anyone who is legally incapable of managing their own affairs because of mental infirmity. This may be as a result of an accident, disease, or psychiatric illness.

**instruction directive:** a person's expression of wishes for health care measures they want taken for them if they become unable to express their wishes themselves, as laid out in a personal directive

**interaction:** communicating with a child outside of parenting time or contact time. Includes phone calls, emails, or letters, sending gifts or cards, attending the child's school activities or other activities, receiving copies of report cards or school photos, video chats


## WHAT DO THE WORDS MEAN?

**intestacy:** the state of dying without leaving a will


**intestate:** to die without a will

**inventory:** a listing of all of a person's possessions, such as for the purpose of a probating will

**joint tenancy:** a type of ownership of property in which each person has equal ownership. See *tenancy in common*.

 **least intrusive:** a representative must not interfere with the privacy and freedom of an adult in need of representation unless absolutely necessary. See *Adult Capacity and Decision-making Act*.

**living will:** a form of instruction directive in which a person sets out one's wishes for health care measures they do or do not want if they become unable to communicate. In Nova Scotia the term used is a Personal Healthcare Directive.

 **marriage contract:** a prenuptial agreement between two persons who are planning to marry to one another

**mediation:** a process for using a neutral third party (the mediator) to help two parties come to an agreement

**mediator:** a person who helps negotiate agreement between two parties. See mediation.

**medical consent:** an agreement to a medical treatment or procedure. It can be a signed document which shows agreement to your own medical treatment or sometimes it can be verbal or implied; for example, when you roll up your sleeve to give a blood sample

**neglect:** the failure to provide a person to whom you owe responsibility with what the person needs, for example adequate food, medical attention, shelter, assistance, care, or clothing. A form of abuse

**notary public:** a person, usually a lawyer, who serves the public in drawing up and certifying legal documents, and authenticating documents as valid

**order:** a document authorized and signed by a judge

**ordinary power of attorney:** see *power of attorney*.

**parenting time:** the time a child spends with a parent or guardian because of a court order or agreement.

**permanent care:** the placement of a child in care which resembles that of wise and conscientious parents

**personal directive:** a type of advance health care directive which allows you to authorize someone else to make decisions about personal care and consent to medical treatment on your behalf

## WHAT DO THE WORDS MEAN?

**personal representative:** an executor of a will or administrator or an estate. Not the same as a representative under the Adult Capacity and Decision-making Act.

**phishing:** a scam used by identity thieves, such as an email which threatens serious consequences if you don't immediately update personal electronic information

**probate:** a legal process to deal with a person's estate after the person's death

**property:** a legal term which indicates all possessions owned by a person, not just real estate

**power of attorney:** a legal document in which you give another person authority to act on your behalf during your lifetime. Also called ordinary power of attorney.

**proxy:** a person who acts as the decision maker. If a person becomes unable to consent to treatment, a proxy has the authority to make health care decisions for that person.

**proxy directive:** the appointment of a person to act as the decision maker, or proxy, as laid out in your advance health care directive, if you become unable to consent to treatment. Also see *delegate*.

**Public Trustee:** the provincial office which has authority to act for people in certain situations if they are unable to care for their own affairs, for example, mentally incompetent persons

**registered domestic partnership:** a declaration filed with the province of Nova Scotia by two people of the same or opposite sex who are living in a conjugal relationship

**renunciation:** a refusal to act or fulfill a function to which you have been named, such as refusing to act as an executor.

**representative:** a person with legal authority to make decisions for another adult under the Adult Capacity and Decision-making Act.

**representation order:** a court order that appoints someone to be a representative.

**representation plan:** a plan to manage the well-being and financial matters of an adult who cannot manage those matters for themselves.

**residue:** any property remaining after all specified gifts in a will have been paid or given to one or more beneficiaries

**retainer:** the payment of an advance fee paid to a professional who will act for you, such as a lawyer

**revoke:** a legal term which means to cancel an existing legal document, such as a will

**scam:** see *fraud*.

**seeking leave of the court:** getting the court's permission to make an application to ask it for something, such as custody.

## WHAT DO THE WORDS MEAN?

**senior abuse:** any action which threatens the health, security, or well-being of an older person. Also called elder abuse.

**serve:** properly notify a person of a court proceeding. Personal service is where someone hand-delivers the court documents directly to that person to notify them.

**shoulder surf:** a tactic used by identity thieves who watch as you punch your access codes and passwords on ATMs, debit machines, telephones, and computers

**specific power of attorney:** a power of attorney that limits exactly what authority you give to your attorney

**spouse:** two people who are married to each other

**springing power of attorney:** a specialized enduring power of attorney document which says what future event will cause it to come or “spring” into effect. Also see *power of attorney*.

**surety:** the person or company which guarantees to pay money or perform acts if a bond fails

**tenant:** a person who owns an asset, such as a joint bank account

**tenancy in common:** a type of joint ownership of property in which two or more people each own part of a shared asset. Their shares may not have the same value. Each owner can use their share how they like or sell it without permission from any other owner. See *joint tenancy*.

**testamentary capacity:** to be mentally competent to make a will. Also called “being of sound mind.” Also see *testator*.

**testator:** a person who makes a will

**trust company:** a corporation organized to perform legal duties, such as a trustee in managing estates

**trustee:** someone who has legal responsibility to manage something, such as property, because of a court order or other legal document

**trustee in bankruptcy:** Court-appointed trustee who administers the affairs of a bankrupt company or person. Also called Licensed Insolvency Trustee.

**undue influence:** a situation in which someone exerts an inappropriate amount of pressure on another person, for example while the person writes their will

**will:** a legal document in which you say what you want done with your property after death

For more information on the topics covered in *It's in Your Hands: Legal Information for Seniors and their Families*, and on the law in Nova Scotia, go to the Legal Information Society of Nova Scotia (LISNS) website at [www.legalinfo.org](http://www.legalinfo.org). Click on "Wills and Estates" or use the search function.

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