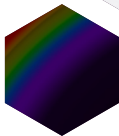
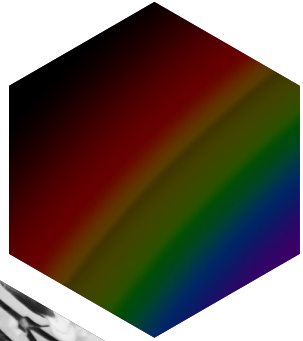


END OF LIFE PLANNING

FOR THE LGBTQ+ COMMUNITY



This guidebook reflects information from 2020 and may change over time.

***This guidebook has been produced with funding and support from
Alberta Status of Women.***

INTRODUCTION TO PERSONAL DIRECTIVES IN ALBERTA

Making a will and personal directive are important for queer and trans people because although there is currently a Canadian precedent for gender neutral birth certificates, there is no current legislation allowing the same for death certificates. In addition, there is no meaningful mechanism in place to ascertain the self-identified gender of a deceased person.

Having these documents in place can ensure that your pronouns, wishes for grooming and dress, as well as your name are recognized by the funeral home of your choice—even if this is not currently on legal record. This ensures that your friends and chosen family can communicate your wishes for you.

**protect your
pronouns.**

WHAT IS A PERSONAL DIRECTIVE?

A personal directive is a document that's written while you are well and able to make decisions, stating your wishes for medical and non medical care. There is no legal requirement for you to have a personal directive, but it will greatly assist you and your loved ones in ensuring your wishes are carried out should something happen to you. If a medical emergency occurs or another circumstance leaves you unable to advocate for yourself, this document will ensure your wishes are followed.

Once the personal directive is created, it is considered a legal document. A personal directive can be created by anyone aged 18 and capable of making decisions about their body.

Only you can create a personal directive. Your friends, family, and/or medical professionals can not create one on your behalf.

CHOOSING AN AGENT

The agent is a person who acts on your behalf when you are unable to on matters regarding your health based on the instructions you have provided in the personal directive.

The agent should attempt to check with you prior to making any decisions about your health care.

Having multiple agents is a good idea, however there is such a thing as too many agents.

- Your agents should be comfortable working together as a team and coming to a team decision
- Your agents should be asked in advance if they would like to be agents.
Do not surprise your loved ones with this!

Your agent(s) cannot:

- Make decisions prohibited by law
- Ask for medical assistance in dying on the adults behalf
- Delegate their role to another person

HOW TO CREATE A PERSONAL DIRECTIVE

It is important to take into account your personal values regarding end of life and quality of life before creating the document.

Some questions to consider:

What do you fear most near the end of life?

- _____
- _____
- _____
- _____
- _____
- _____

If you could plan them today, what would you want the last days of your life to look like? Who would you want to spend them with, and where would you want to spend them?

- _____
- _____
- _____
- _____
- _____
- _____

What activities would you want to be doing? If possible, what food would you want to enjoy?

- _____
- _____
- _____
- _____
- _____
- _____

Would you want comfort from a faith or spiritual advisor?

- _____
- _____
- _____
- _____
- _____
- _____

Are there people you'd like to write a letter or record a video for to be watched/read in the future?

- _____
- _____
- _____
- _____
- _____
- _____

How do you want to be remembered by your loved ones? If you were to write your own obituary, what would it say?

- _____
- _____
- _____
- _____
- _____
- _____

If you were to acquire and survive an infection or long term illness, what would you want your life to look like as you recover?

- _____
- _____
- _____
- _____
- _____
- _____

How do you feel about quality of life versus quantity of life?

- _____
- _____
- _____
- _____
- _____
- _____

What level of care would you want to receive?

- Highest level of care (all resuscitation, including CPR and ventilator)
- Intensive care without CPR, but including all other resuscitation, including a ventilator
- Conservative medical treatment but no CPR and no ventilator
- Symptom management (approaching end of life); symptom management and a focus on symptom control (typically this would be at home or a residential care facility)
- Symptom management (end of life): stop feeding and drinking, symptom management and a focus on symptom control, regardless of location

For example, if you wanted the highest level of care, your directive could look like this:

“I understand that all medical interventions including defibrillation, being on a ventilator, and being in a critical care unit, will be provided. Wherever possible, discuss risks versus benefits of ongoing resuscitation measures and ventilation, and ongoing therapy or surgeries with my Agent and loved ones, and continue or discontinue care, based on my values and beliefs.”

HOW TO FORMAT A PERSONAL DIRECTIVE IN ALBERTA

- Personal Directive
- Your full name
- Your date of birth
- Your Alberta Health Number
- Signature of one witness
- This witness can't be a paid caregiver, a paid caregiver's spouse, the Agent, or someone who will be a beneficiary in the Will
- Printed name of witness
- Phone number and addresses recommended
- Multiple signed copies need to be made
- 1 should be given to your physician
- 1 to your Agent

I have known folks who kept one on their person (in a purse or bag) when they hit a certain age, or who included it in their Green Sleeve on their fridge.

Do not put this document in a locked security box. The document needs to be easily accessible!

INTRODUCTION TO WILLS IN ALBERTA

A will is a legal statement of how you want your property to be dealt with after your death.

Property that is distributed following your death is called the estate and can include cash, investments, work benefits, earnings, proceeds from legal actions, insurance settlements, personal effects, personal property, land/buildings, and more.

CHOOSING A PERSONAL REPRESENTATIVE

The personal representative is the person you choose to be in charge of carrying out the wishes in your will.

- This can be a different person than the Agent(s) who carry out your Personal Directive. It may be easier on all involved if these are separate people as there is a lot involved in these roles.

A personal representative can be:

- Any adult who is able to make decisions
- A corporation/trust company
- A beneficiary named in your will
- A lawyer

Make sure that this person is willing to act on your behalf before you name them.

This representative should have knowledge about business affairs and also be likely to outlive you. They should be trustworthy and reliable. They need to be someone who is confidently going to carry out your instructions and have time to do so.

You can choose someone who does not live in Alberta, but they may have to post a bond with the court before they can start working with your estate. There may be tax consequences for your estate if you choose someone who does not live in Canada. If you are planning on choosing someone who does not live in Canada to be your personal representative, talk to a lawyer.

You can choose more than 1 representative, but they must act unanimously at all times unless your will or the court states otherwise.

You should also state at least one back up in case your first choice is unable to do the job. Having several alternates is a good idea, but be clear about what order you'd want them to act.

WHAT IS NEEDED TO WRITE A WILL IN ALBERTA?

There are 3 kinds of wills in Alberta:



FORMAL WILL

- Signed by you and two witnesses in the presence of each other.



HANDWRITTEN WILLS (HOLOGRAPH WILLS)

- These are legal in Alberta, but not necessarily in other provinces or territories. These must be in your own writing, must be signed by you, and are not witnessed. Great for emergencies, but must clearly state what your intentions are.



MILITARY WILLS

- Written while in active service with the Canadian Forces. These are signed by you but not witnessed.

You can dispose of your property as you wish during your lifetime. If your will states that someone is to get certain property and you no longer own it when you die, that person will not get that gift.

Writing a will is the only way to control who gets what you have when you die.

Some property does not form part of your estate:

- Property where the owners are described as joint tenants (land, a house, or bank accounts you might share with someone else)
- Assets where a beneficiary other than the estate has been designated (typically investment accounts, insurance policies, or pension plans)

If you are First Nations and typically live on reserve, the law is different for wills and how your estate will be dealt with after you die. This is due to the Indian Act and the Indian Estates Regulation. Please call Indigenous Services Canada for further information about this, or when a family member or friend dies-they will be able to help you with the next steps.

If you are over age 18 and are capable of making decisions, you can make a will.

If you are under the age of 18, but:

- Have a spouse/ adult interdependent partner or
- Are in the Canadian Forces or
- Have the court's permission

You can make a will.

You can make a will on your own, or through a kit (you can get these at a registry office) but there are a few specific circumstances where consulting a lawyer when creating your will might be a good idea:

- You have a large estate (you own a business, you have children who live outside of Canada, or family members with special needs that you are guardian of)
- You are getting a divorce and are updating your will
- You have a blended family
- You are older or ill
- You feel like you are being pressured or influenced by others
- You are thinking about marriage
- You are starting or ending an adult interdependent relationship

Some additional things to keep in mind:

- If you are paying spousal support or child support, this obligation does not die with you and will be taken from your estate if adequate provision is not made
- Your will should be reviewed yearly
- If you get divorced or stop being in an adult interdependent relationship, your will is still valid and isn't affected by your change in relationship
- If you still intend for your ex partner to receive a gift, you will need to indicate that that is the case
- Your ex partner can't be the personal representative
- You can't change a will by crossing out words; you will want to draw up a new will or a codicil (document that says what parts have been changed)

There are usually several sections to a will:

- Cancelling previous wills (if applicable)
- Appointing a personal representative and alternates
- Naming beneficiaries of specific gifts
- Naming beneficiaries of the residue of your estate
- Naming a guardian or creating trusts for your children
- Any other details

Your will needs to be signed by two witnesses that are:

- Over age 18
- Not beneficiaries of the will
- Not the spouse of a beneficiary
- It can be a personal representative as long as they aren't a beneficiary

Ensure an updated copy of your will is accessible by your representative.

DIGITAL PROFILE EXECUTOR

It may be a good idea to create a document with your passwords for your social media, email, and online storage. You would want to ensure this document is updated frequently and that it is stored in a safe place. The reason for this is because apart from Facebook, at this time very few online services provide the option to pass on accounts or passwords following an account holder's death. In an era where more and more is connected to our email, it is important that someone has access to your email following your death.

Alternatively, for accounts such as Spotify or Apple Music where there is the option for a shared or family plan, your account would continue to be shared with the other person following your death.

Facebook has two options for accounts of people who have deceased:

- You can choose ahead of time to have your account permanently deleted upon your death
- You can appoint a legacy contact to look after your memorialized account or to permanently delete your Facebook account

A legacy contact is someone you choose to look after your account if it's memorialized. They can accept friend requests on behalf of a memorialized account, pin a tribute post to the profile, and change the profile picture and cover photo. If the memorialized account has an area for tributes, the legacy contact can decide who can see and who can post tributes.

A memorialized account is designed for friends and family to gather and share memories after a person has passed away. Memorialized accounts have the following features:

- The word Remembering will be shown next to the person's name on their profile
- Depending on the privacy settings of the account, friends can share memories on the memorialized timeline
- Content the person shared while alive stays on Facebook and is visible on Facebook to the audience it was shared with
- Memorialized profiles don't appear in public spaces (People You May Know, ads, or birthday reminders)
- No one can log into a memorialized account.
- Memorialized accounts that don't have a legacy contact can't be changed
- If you don't choose to have your account permanently deleted, Facebook will memorialize your page if they become aware of your passing

To set a legacy contact, go to **"Settings and Privacy"**, then select **"Settings"**. Click **Memorialization Settings**. Type in a friend's name in **Choose A Friend** and click **Add**. To let your friend know they're now your legacy contact, click **Send**. If your account is memorialized, your legacy contact will be notified. You must be 19 or older to select a legacy contact.

To request that your account be deleted, go to **"Settings"** and click **Memorialization Settings**. Scroll down, and click **Request that your account be deleted after you pass away** and click **Delete After Death**.

Settings and Privacy



Settings



Memorialization Settings



TO SET A LEGACY CONTACT:

Choose A Friend



Add



Send

TO REQUEST THAT YOUR ACCOUNT BE DELETED:



Request That Your Account Be Deleted
After You Pass Away



Delete After Death



FUNERAL PLANNING IN ALBERTA

There are no legal definitions of “funeral” or “memorial service”.

- Traditionally, a funeral took place in a place of worship with the body present and a memorial service took place following cremation with the cremains present
- You are welcome to use whatever terms you are most comfortable with

Pre-arranging your own funeral is absolutely still done in 2020; here are some questions to ask:

What do you want done with your body? (organ donation, embalming, makeup)

- _____
- _____
- _____
- _____
- _____
- _____

What kind of service do you want? (religious or secular, large or small...)

- _____
- _____
- _____
- _____
- _____
- _____

Do you want burial vs cremation, and where would you like your remains to go?

- _____
- _____
- _____
- _____
- _____
- _____

There are two ways to pay for a pre-arranged funeral. There are pros and cons to both.

- Giving the money directly to the funeral home (which will be held in a trust account)
- Through an insurance contract

Funeral homes can't solicit pre paid funerals over the phone or door to door unless you have booked an appointment; funeral homes also can't distribute this information in any home or residence maintained for elderly people without obtaining permission from management first.

WHAT IS NEEDED FOR A FUNERAL IN ALBERTA?

It is legal for friends and family to arrange for burial or cremation themselves without the assistance of a funeral home in Alberta.

- A certificate of death must be obtained first
- If burial is taking place, a death registration must also be obtained from the attending doctor. These two forms are then taken to Vital Statistics or a Hospital Registrar to receive the Burial Permit
- There are additional forms to fill out for cremation

Arrangements will need to be made in advance with the cemetery or crematorium; in addition arrangements will need to be made for transportation to and from the memorial service.

- If the deceased is to be transported within Alberta, there are no regulations as to the type of vehicle that can be used and no permits are needed

Thoughts about embalming:

- This is usually done for cosmetic and sanitary reasons
- If burial or cremation is taking place within 72 hours of death, embalming is not usually legally required
- Embalming is not permitted by law if a person dies of certain communicable diseases (Covid 19)
- If the body is transported across a provincial boundary, embalming is required by law

CREMATION

There is no legislation in Alberta that requires a casket to be used in cremation; however funeral homes and crematoriums usually request that the body be enclosed in a combustible container with handles. This container can be handmade by the family or loved ones.

Ashes are returned typically within 1-2 days following cremation. You will need to provide an urn of some kind. Although the funeral home/crematorium will typically have options for purchase, you can bring your own urn. This could be a non traditional item that meant something to the deceased (sometimes the deceased outlines this in their funeral plan!)

Cremated remains can be buried in existing graves, placed in a niche, or scattered. Some cemeteries have special areas of urns if there is no family grave.

Although there are no legal requirements to bury cremated remains following cremation in Canada or Alberta, there are a few restrictions to keep in mind:

- Scattering is typically permitted on Crown lands and publicly owned lands, but you will want to get permission ahead of time
- Although scattering cremated remains in water in national parks (Banff, Jasper) is prohibited, casting remains to the wind is allowed
- In provincial parks, forests, and wilderness areas (Kananaskis), scattering is allowed anywhere, but permission is required to scatter remains over lakes and rivers
- Some municipalities allow scattering in parks and golf courses; however there might be time and location restrictions
- Some cemeteries have special areas where cremated remains can be scattered rather than buried and a plaque can be placed to commemorate the deceased

There are several issues to consider before scattering ashes. There is a possibility that there won't be a permanent place to identify with the deceased. If you scatter on private property, the land could be sold in the future, prohibiting your access. There may be restrictions at parks, lakes, and similar place-in the future they may not be as accessible or in the same condition. If you scatter anywhere apart from your own land or a cemetery, there is no way to place a marker for future generations.

There are other options for cremains besides scattering, burying, or keeping in an urn. There are businesses that can transform cremains into objects for your home or pieces of jewelry that can be worn.



DONATING YOUR BODY TO SCIENCE IN ALBERTA

The Cumming School of Medicine at the University of Calgary has a body donation program. This program benefits the following programs:

- University of Calgary
 - Cumming School of Medicine
 - Faculty of Nursing
 - Kinesiology
 - Continuing professional development initiatives
- Mount Royal University
 - Faculty of Nursing and Midwifery
- Southern Alberta Institute of Technology (SAIT)
 - Diagnostic Imaging and Paramedicine

SOMEONE IN MY LIFE PASSED AWAY, AND EITHER THEMSELVES OR MYSELF IS LIVING ON A LOW INCOME. WHAT OPTIONS ARE AVAILABLE TO ME IN ALBERTA?

There is a funeral benefit available for people who are receiving AISH. In order to access this benefit, the following criteria must be met:

- Assets of client and their cohabitating partner cannot exceed \$5,000
 - An exception can be made for situations of financial hardship; the provincial government defines “financial hardship” as when a person is unable to arrange his/her circumstances and financial affairs to meet his/her basic needs and those of his/her cohabitating partner and dependent child

- The client must demonstrate a need for the benefit
- The same or similar benefit must not be available for any other program or source

If possible, these benefits should be accessed first:

- Canada Pension Plan (death benefit)
- Life insurance benefits
- Insurance benefits if death was caused by an insured motor vehicle
- Last Post Fund (if deceased was a Canadian Forces veteran)

This benefit is paid directly towards a funeral provider to cover costs for a client, the cohabitating partner, or their dependent child through an agreement through the province and specific funeral homes in Alberta. The benefit will be provided only if the financial resources of the client and their cohabitating partner are inadequate and there are no other means to pay the costs of the funeral. The funeral home will provide you with information about what specifically is covered by AISH.

AISH will need to provide authorization before the client, cohabitating partner, or dependent child can make arrangements with the funeral home. Clients or family members can contact the Health and Funeral Benefit unit to receive a list of approved funeral homes in Alberta (1-855-638-4443 toll free in Alberta)

Responsible survivors are:

- The cohabitating partner of the deceased (as long as there is no formal separation or divorce)
- The legal parents of a deceased child less than 18 years old
- The legal sponsor of a sponsored immigrant

Responsible survivors are expected to financially contribute towards the cost of basic funeral services as long as they have assets over \$5,000. AISH will not pay funeral expenses if the responsible survivor has assets over \$5,000 and refuses to pay, or if they refuse to provide information that indicates their inability to pay.

Any people apart from responsible survivors can enhance the funeral by adding/upgrading an item or service that AISH does not provide. This group will need to pay the full cost of any item or service that is added, enhanced, or upgraded.

For First Nations AISH clients, Bands may not provide enhancements. Instead, funds provided will be applied to the cost of the non enhanced funeral expenses.

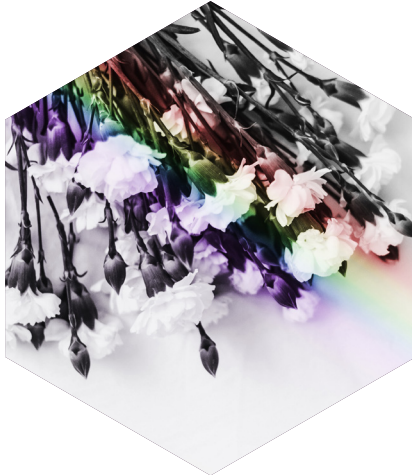
ASSORTED DETAILS

If you know someone is going to pass away, and they have a minister, priest, spiritual leader, or similar faith leader in their life, notify this person as soon as possible.

Following the funeral, there will be a number of places to notify. This is a non exhaustive list:

- Government pension plans
- Private pension plans
- Alberta Health Care
- CRA
- Banks, investments, and credit cards
- Telephone and internet
- Canada Post (if mail is to be cancelled or redirected)
- Car registration, home and vehicle insurance
- Change of titles for real estate
- Any organizations or associations
- Any subscriptions

Some airlines give compassionate discounts for immediate family members who have to make last minute travel arrangements when a death has occurred or when the death of a relative is imminent. You may have to provide a death certificate or other clarifying documents to substantiate your claim.



Resources:

<https://www.facebook.com/help/1506822589577997>

<https://www.thelawyersdaily.ca/articles/9635/recognition-of-lived-identity-an-access-to-justice-wills-and-estates-issue-experts-say>

<https://www.cplea.ca/wp-content/uploads/MakingAWill.pdf>

<https://myhealth.alberta.ca/Pages/OTDRHome.aspx>

<https://www.cplea.ca/wp-content/uploads/PlanningYourOwnFuneral.pdf>

<http://www.assembly.ab.ca/lao/library/egovdocs/2005/als/152015.pdf>

https://www.dyingwithdignity.ca/download_your_advance_care_planning_kit



calgary outlink

Centre for Gender and Sexual Diversity