Wills & Powers of Attorney

CLEO LEGAL INFORMATION CONFERENCE

OCTOBER 21, 2026

MEGAN STUCKEY – STAFF LAWYER

Advocacy North for Elders & Seniors

- **Advocacy North** is a collaborative effort of all 11 Northern Community Legal Clinics (Muskoka to Moosonee to Kenora), in the area of Elder and Senior Law.

Areas of law

- POA (personal care/property)
- Consent and Capacity
- Long-term care homes
- Elder Abuse
- Consumer-protection

Picking the Right Document

Will

- Legally binding document
- Instructions for **after** your death
- Assign an Executor to manage your Estate
- Dictates who gets your Estate

Living Will

- **NOT** a legally binding document in Ontario (usually found in the U.S.A.)
- Used to express your **WISHES** for your care while alive.
- Letter of Wishes

Power of Attorney

- Legally binding document
- Allows you to name the person(s) who will make decisions for you when you are mentally incapable
- Can be property decisions or personal care decisions
- Ends when you die

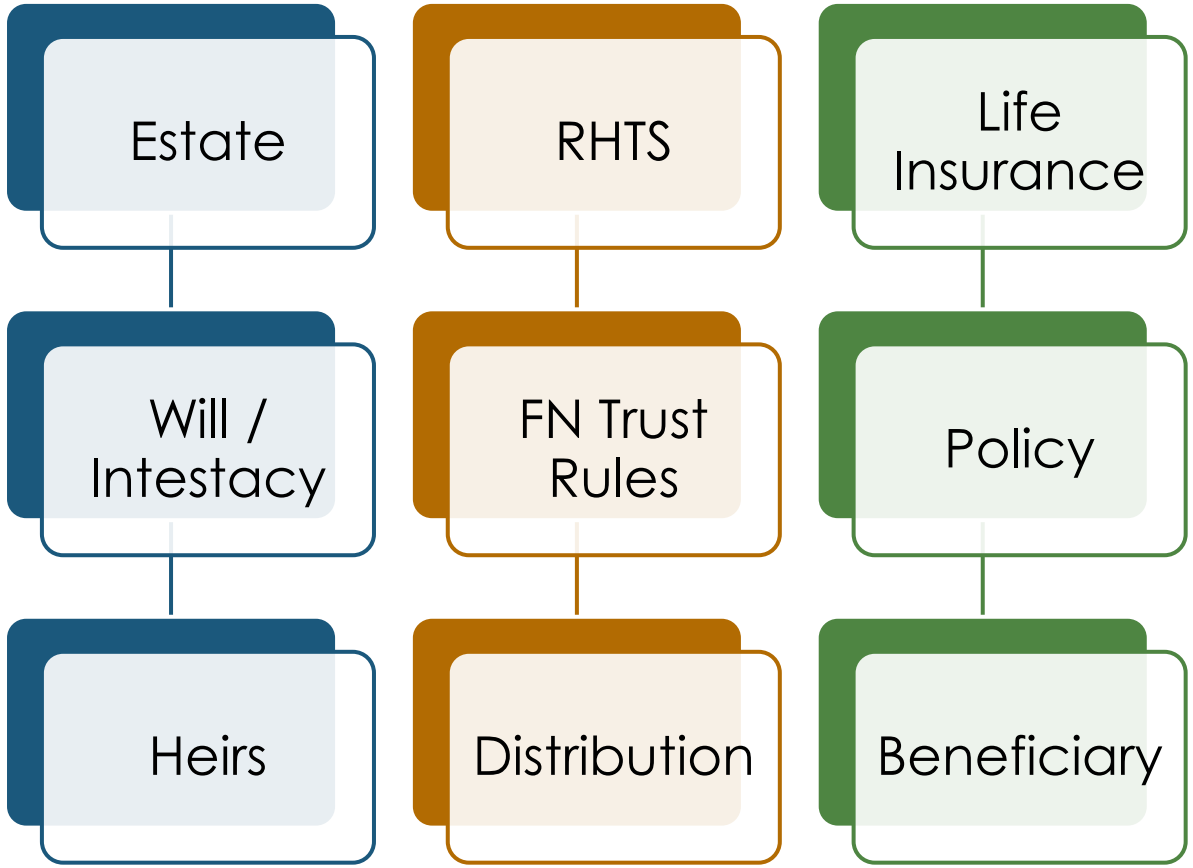
“

In case I die in this mess I leave all to the wife.

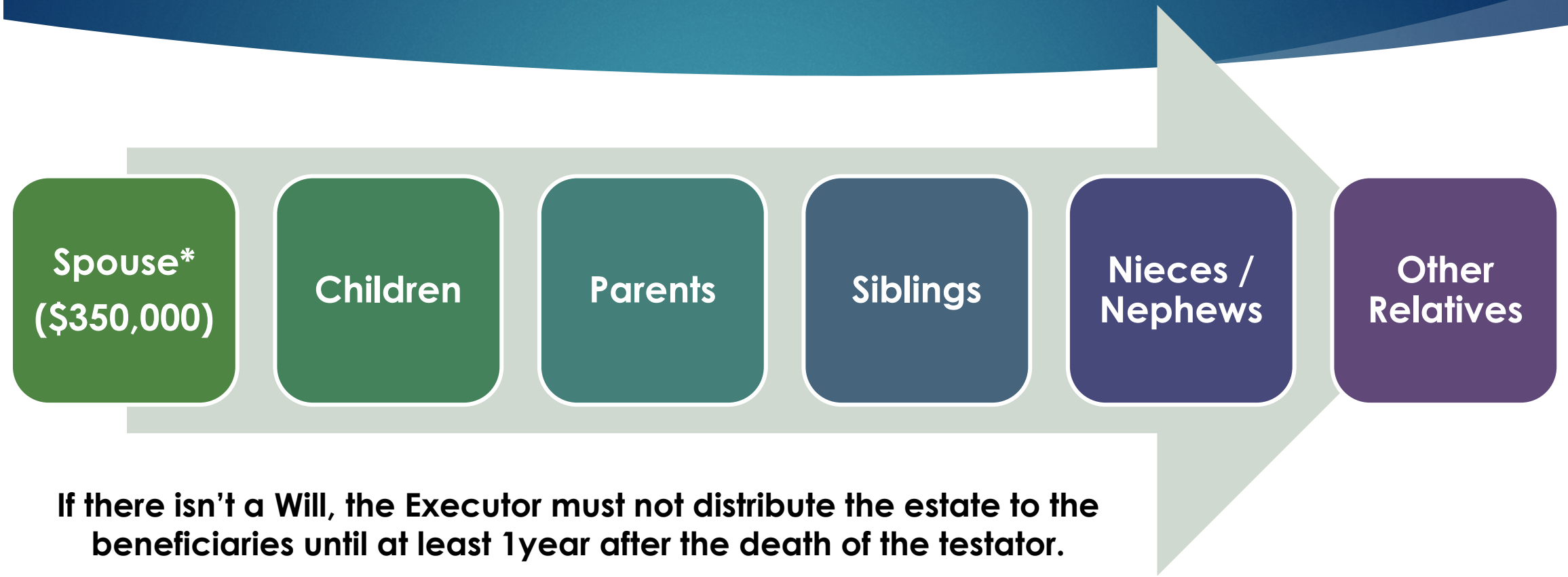
”

Cecil G. Harris

Robinson Huron Treaty Settlement



Inheritance without a Will



If there isn't a Will, the Executor must not distribute the estate to the beneficiaries until at least 1year after the death of the testator.

What is Probate?







Affidavit of Execution

Otherwise known as "fancy document where someone confirms they were actually a witness to your Will" (legally speaking).

Affidavit of Execution (Form 74D)

- Sworn affidavit by one of your witnesses stating that they were present when you signed your Will.
- They must sign the affidavit before a lawyer or commissioner of oaths.
- Attach it to your Will.
- Required for probate.

Powers of Attorney

Making a POA is about…

Picking a Person



to make decisions



if I am incapable.



WHO can be an Attorney?

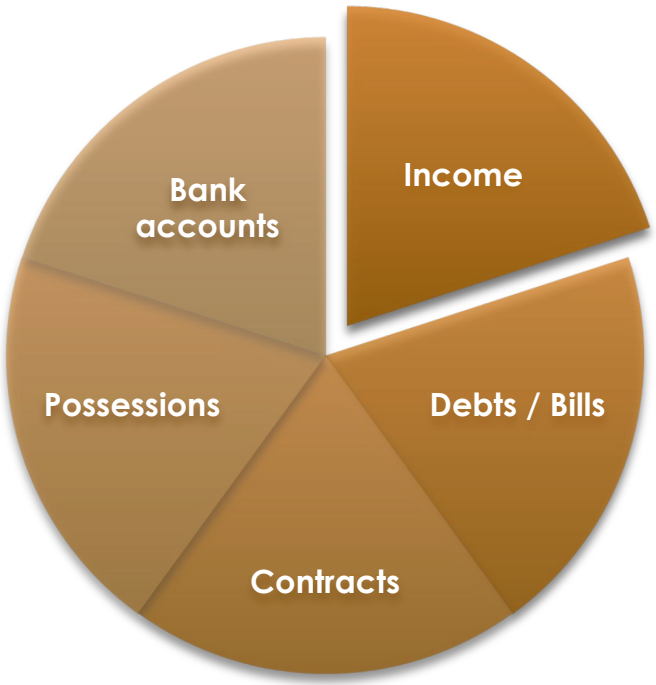


Decisions

Personal Care



Property



Am I Capable?

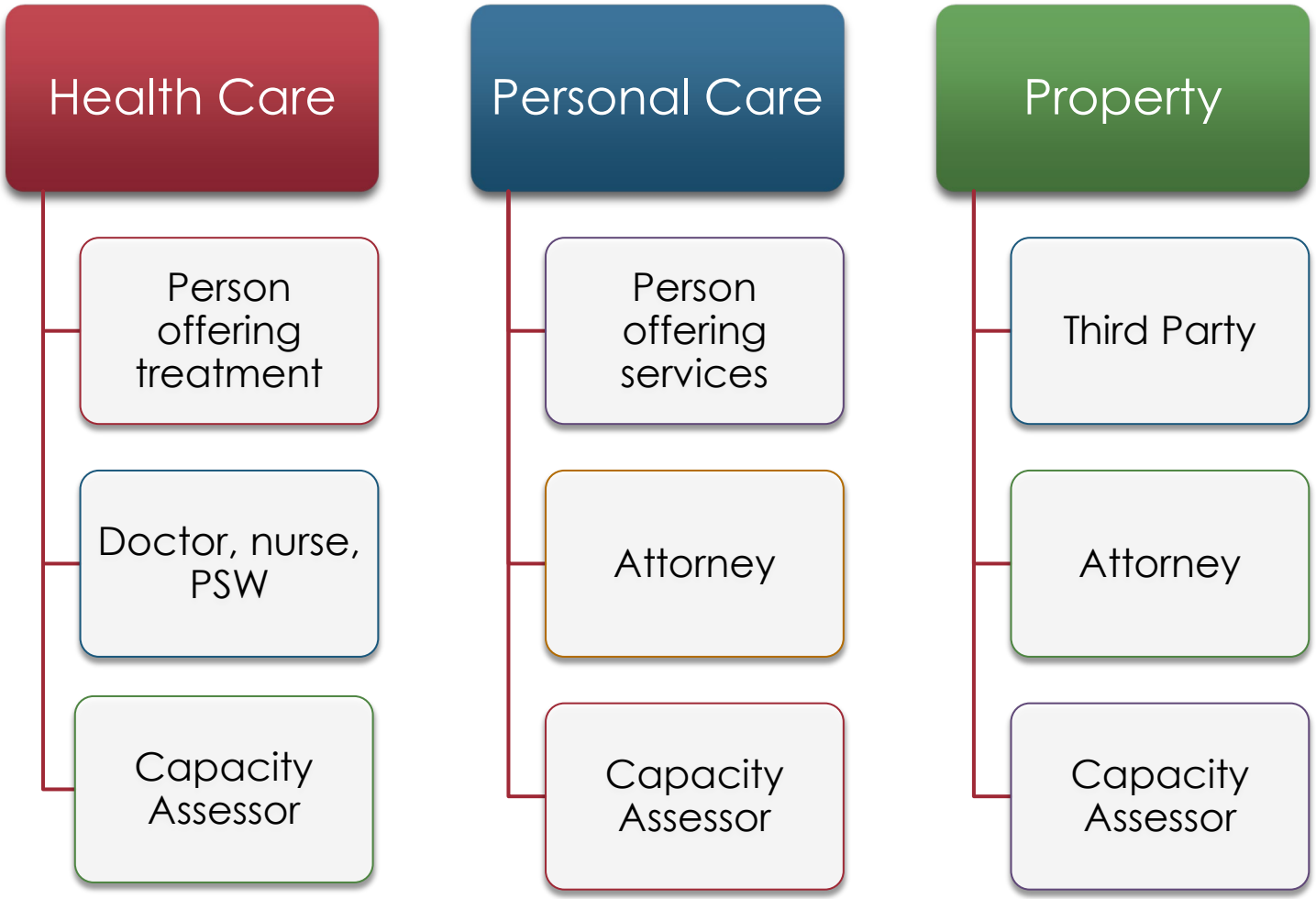
Your capacity is **PRESUMED** unless there are **REASONABLE GROUNDS** to believe otherwise. You are **incapable if:**

unable to understand information that is relevant to making a specific decision,

OR

unable to appreciate the reasonably foreseeable consequences of a decision or lack of decision.

Who Decides if I am Incapable?



End of Life Decisions

DNR

- Provided by doctor
- Pre-consent to not receive CPR in case of emergency
- You or your SDM can sign a DNR

MAiD

- Provided by doctor
- Must meet eligibility
- "Advance requests" not allowed
- Only you can apply and consent

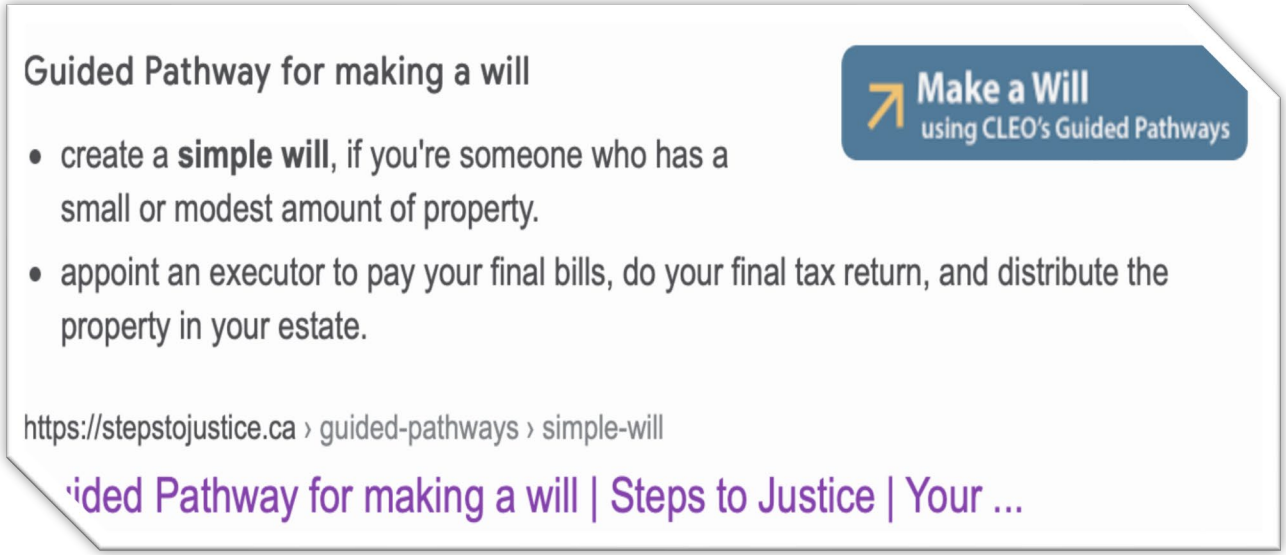
Living Will

- Prepared by you
- Instructions for your family or attorney to follow

Free Will & POA

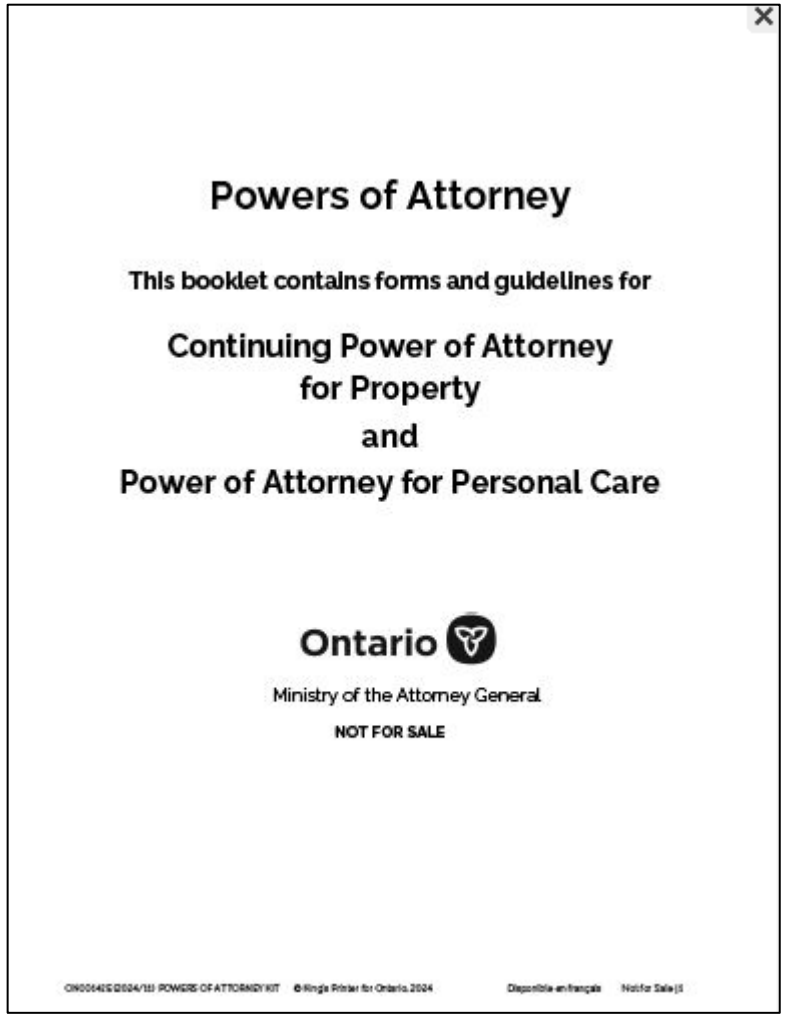
CLEO provides a free online Will which can be filled in and printed.

www.stepstojustice.ca



Free Powers of Attorney

The Ministry of Attorney General provides a free printed POA kit, which can be filled in by hand and signed.



https://www.publications.gov.on.ca/300975

Questions?

Megan Stuckey, Staff Lawyer
Advocacy North for Elders & Seniors

Sudbury Community Legal Clinic, 272-40 Elm Street
T. 1-800-697-8719
E. megan.stuckey@sclc.clcj.ca