ACTION TO BE CONSIDERED	NOTES

INTRODUCTION

Purpose and currency of checklist. This checklist is designed to be used with the CLIENT IDENTIFICATION AND VERIFICATION PROCEDURE (A-1), WILL PROCEDURE (G-1), and WILL-MAKER INTERVIEW (G-2) checklists. It should only be used as a guide. The provisions must be considered in relation to the particular facts at hand and augmented and revised as appropriate. This checklist is current to September 1, 2019.

New developments:

- **Trust reporting requirements.** On July 27, 2018, the Department of Finance Canada released draft legislation proposing amendments to the *Income Tax Act*, R.S.C. 1985, c. 1 (5th Supp.) and the Regulations made thereunder, which will require certain trusts to report personal information (name, address, date of birth, jurisdiction of residence, and tax identification number) of all trustees, beneficiaries, settlors (as that term is broadly defined in subsection 17(15) of the *Income Tax Act*), and certain other persons having an ability to exert influence over trustee decisions regarding appointment of income or capital. If enacted as proposed, the new reporting requirements will take effect in 2021. An estate which qualifies as a graduated rate estate ("GRE") will be exempt from the reporting requirements, but testamentary trusts and estates which extend longer than three years or otherwise do not qualify as a GRE will be required to comply. Penalties for failing to comply knowingly or in circumstances amounting to gross negligence will result in a penalty of 5% of the highest value of all of the trust's property. If the omission spans more than one taxation year, the 5% penalty may apply in respect of each year.
- **Private corporation tax amendments.** Amendments to the provisions of the *Income Tax Act* dealing with taxation of private corporations and their shareholders were introduced to take effect in 2018 and subsequent taxation years. The amendments may have significant tax consequences where private corporation shares are held by a taxpayer on death. Clients holding private corporation shares may wish to obtain tax advice specific to their situation regarding the impact of the amendments.

Law Society Rules:

- **Trust accounts and cash transactions.** Lawyers may not move funds into or out of their trust accounts unless the funds are directly related to legal services (see Law Society Rule 1, definition of "trust funds", and Law Society Rules 3-53, 3-58.1, 3-59, 3-70(1), and 3-98(1)). Lawyers are prohibited from accepting more than $7,500 in cash, which increases the previous amount by one cent for consistency with the updated Federation of Law Societies Model Code (Law Society Rule 3-59). (See exceptions for fees, etc. in connection with the provision of legal services in subrules (2) and (4).) For more information see the July 15, 2019 Notice to the Profession, the Summer 2019 *Benchers' Bulletin*, pp. 10 to 14, and the Fall *Benchers' Bulletin*, pp. 14 to 17. For trust account questions, contact trustaccounting@lsbc.org or 604.697.5810.
- **Fiduciary property rules.** The Law Society's consultation with the profession on proposed changes to Law Society Rule 3-55(6) that would prohibit fiduciary property from being deposited into a trust account when no legal services are provided has concluded. The Benchers are expected to consider the fiduciary property rules in light of Law Society Rule 3-58.1 in 2020.

ACTION TO BE CONSIDERED	NOTES
• **Client identification and verification.** Changes to the client identification and verification rules take effect on **January 1, 2020**. The changes introduce more stringent requirements to verify a client's identity, provide more options for how to confirm a client's identity, and require lawyers in financial transactions to obtain additional information about a client's source of money, as well as periodic monitoring and recording of professional business relationships with clients. These changes will affect parts of the CLIENT IDENTIFICATION AND VERIFICATION PROCEDURE (A-1) checklist current to September 1, 2019. • The Law Society Rules are published at www.lawsociety.bc.ca/support-and-resources-for-lawyers/act-rules-and-code/law-society-rules. **Of note:** • **Fraud prevention.** Lawyers should maintain an awareness of the myriad scams that target lawyers, including the cheque printing scam, the bad cheque scam, fraudulent changes in payment instructions (i.e., through the client's email or a similar looking email address), and fake law firms and lawyers, and they must be vigilant about the client identification and verification rules, the source of money when there is a financial transaction, and the no-cash rules. Lawyers should be on high alert for fraudulent activity, especially while they are away from the office and during holidays. Lawyers should implement appropriate supervision of their practice while away. See the "Fraud Prevention" page, including the "Fraud Alerts" section, on the Law Society website at www.lawsociety.bc.ca/support-and-resources-for-lawyers/lawyers-insurance-fund/fraud-prevention. • **Searches of lawyers' electronic devices at borders.** See "Crossing Borders with Electronic Devices—Canada, the US and Beyond" in the Spring 2019 *Benchers' Bulletin* for recommendations to minimize the risks of compromising professional responsibilities when travelling with electronic devices across borders. Links to correspondence about this topic between the Law Society, the Federation of Law Societies, and the federal government are included. • **Discipline Advisory—Private Lending.** The Law Society has warned lawyers that there is an increased risk of illegal activity with private lending and that it is a means by which proceeds of crime can be laundered. The warning is available at https://www.lawsociety.bc.ca/support-and-resources-for-lawyers/discipline-advisories/april-2,-2019. • **Definition of "spouse".** The *Wills, Estates and Succession Act*, S.B.C 2009, c.13 ("*WESA*"), provides that common-law spouses have the same rights as legally married spouses, provided such individuals have lived together for at least two years in a marriage-like relationship (s. 2(1)). For the purposes of *WESA*, two persons cease to be spouses on separation, unless within one year they reconcile and live together for at least 90 days (s. 2(2) and (2.1)). Under the *Income Tax Act*, common-law partners enjoy the same entitlement and obligations as married spouses if, at the relevant time, they have lived together for at least one year in a conjugal relationship and have not been separated for 90 days for reasons of relationship breakdown. Married spouses continue to be recognized as such under the *Income Tax Act* until divorce. Any reference to "spouse" in the following checklists should be taken to include common-law spouses who qualify under the applicable statutory definitions.	

ACTION TO BE CONSIDERED	NOTES
• **Aboriginal law.** The *Indian Act*, R.S.C. 1985, c. I-5, applies to wills made by "Indians" (as defined in the *Indian Act*) and to estates of deceased Indians who ordinarily resided on reserve land. The Minister of Crown-Indigenous Relations and Northern Affairs Canada is given broad powers over testamentary matters and causes (*Indian Act*, ss. 42 to 50). The formalities of execution of an Indian will are governed by the *Indian Act* (ss. 45 and 46) and the Indian Estates Regulations, C.R.C., c. 954, s. 15; the Minister may accept a document as a will even if it does not comply with provincial laws of general application. It is good practice, however, to ensure that an Indian will or testamentary document is executed in the presence of two witnesses, with those witnesses signing after the will-maker in the will-maker's presence. An Indian will is of no legal effect unless the Minister accepts it, and property of a deceased Indian cannot be disposed of without approval (*Indian Act*, s. 45(2) and (3)). The Minister also has the power to void a will, in whole or in part, under certain circumstances (*Indian Act*, s. 46(1)(a) to (f)). If part or all of a will is declared void, intestacy provisions in the *Indian Act* will apply (*Indian Act*, ss. 46(2) and 48). Should an executor named in a will be deceased, refuse to act, or be incapable of acting, a new executor can be appointed by the Minister (*Indian Act*, s. 43; Indian Estates Regulations, s. 11). The Minister has similar powers in intestacy situations. The Minister is vested with exclusive jurisdiction over estates of mentally incompetent Indians (*Indian Act*, s. 51). A provincial probate court may be permitted to exercise jurisdiction if the Minister consents in writing (*Indian Act*, ss. 44 and 45(3)). On December 16, 2014, ss. 12 to 52 of the *Family Homes on Reserves and Matrimonial Interests or Rights Act*, S.C. 2013, c. 20, came into force; ss. 1 to 11 and 53 came into force on December 16, 2013. This federal legislation applies to married and common-law spouses living on reserve land where at least one spouse is a First Nations member or an Indian. Sections 13 to 52 apply to First Nations who have not enacted their own matrimonial real property laws. Sections 14 and 34 to 40 pertain to the consequences of the death of a spouse or common-law partner. Other statutory restrictions may apply to estates of deceased Indians. For example, a person who is "not entitled to reside on a reserve" may not acquire rights to possess or occupy land on that reserve under a will or on intestacy (*Indian Act*, s. 50), and no person may acquire certain cultural artifacts situated on a reserve without written consent of the Minister (*Indian Act*, s. 91). As some Indian bands or First Nation entities have entered into treaties (e.g., the *Nisga'a Final Agreement Act*, S.B.C. 1999, c. 2, and the *Tsawwassen First Nation Final Agreement Act*, S.B.C. 2007, c. 39) that may have governance, property, and other related implications, consider the status of an Indian instructing on a will and that of the band or First Nation of which the deceased Indian was a member. *WESA*, Part 2, Division 3 allows for the intervention of the Nisga'a Lisims Government and treaty first nations where the will of a Nisga'a or treaty first nation citizen disposes of cultural property. Further information on Aboriginal law issues is available on the "Aboriginal Law" page in the "Practice Areas" section of the Continuing Legal Education Society of British Columbia website (www.cle.bc.ca) and in other CLEBC publications. If acting with respect to an Indian will or estate, consider seeking advice from a lawyer who has experience in Aboriginal law matters.	

ACTION TO BE CONSIDERED	NOTES

- **Additional resources.** See also annual editions of *Annotated Estates Practice* (CLEBC, 2014–), and *Wills and Personal Planning Precedents—An Annotated Guide* (CLEBC, 1998–); *British Columbia Estate Planning and Wealth Preservation* (CLEBC, 2002–); *British Columbia Probate and Estate Administration Practice Manual*, 2nd ed. (CLEBC, 2007–); *Incapacity Planning: The New Law* (CLEBC, 2011), all available at www.cle.bc.ca; and *Recommended Practices for Wills Practitioners Relating to Potential Undue Influence: A Guide* (British Columbia Law Institute, 2012), available at www.bcli.org and on the Law Society website at www.lawsociety.bc.ca/Website/media/Shared/docs/practice/resources/guide-wills.pdf.

CONTENTS

CHECKLIST

1. PRELIMINARY MATTERS

1.1 Confirm compliance with Law Society Rules 3-98 to 3-110 on client identification and verification; complete the CLIENT IDENTIFICATION AND VERIFICATION PROCEDURE (A-1) checklist. Provide the client with terms of engagement in writing, including an explanation of fees, disbursements, and other charges. See s. 3.6 of the *Code of Professional Conduct for British Columbia* (the "*BC Code*"). Note rule 3.6-3, commentary [1] regarding the duty of candour owed to clients respecting fees and other charges for which a client is billed.

.1 Joint retainer. Review *BC Code* rules 3.4-5 to 3.4-9. Note the requirements in rule 3.4-5, commentary [2] and [3] regarding specific advice the lawyer must give to clients when receiving will instructions from spouses or partners, the consent that should be obtained, and what to do if, subsequently, one spouse communicates new instructions.

.2 Conflicts—clauses that should not appear in the will. Review *BC Code* rules 3.4-37 to 3.4-39. You must not include a clause directing the executor to retain the lawyer's services for estate administration (see rule 3.4-37). The will-maker may communicate in the will or by a separate document the will-maker's wish that the executor retain a particular lawyer or firm to act for the estate, although such a statement by the will-maker would be advisory only (Ethics Committee April 4, 2013).

ACTION TO BE CONSIDERED	NOTES
Do not include a clause giving the lawyer or an associate a gift or benefit, unless the client is a family member (see rule 3.4-38). Also consider rule 3.4-26.1 to 26.2. "Family member" is not defined in the *BC Code*, but the BC Lawyers' Compulsory Professional Insurance policy defines "family member" as a spouse, children, parent, or siblings. The lawyer must not accept a gift, other than a nominal gift, from the client unless the client has received independent legal advice (see rule 3.4-39). The placing of a charging clause at the client's request does not constitute a gift or benefit within the meaning of rule 3.4-38. Such a clause is simply an authorization for the lawyer to charge a fee for performing executor services in the future and is subject to the same ethical constraints as any other fee.	
1.2 Declaration of testamentary intention.	
2. REVOCATION	
2.1 Declaration that all other wills be revoked. Consider restricting the scope of the general revocation clause so that it does not extend to beneficiary designations for RRSPs and insurance policies owned by the will-maker unless they are specifically dealt with in the will. In considering this issue, note that *Wills, Estates and Succession Act*, S.B.C 2009, c.13 ("*WESA*"), s. 97 provides that a revocation clause in a will revokes a designation not in a will only if the revocation relates "generally or specifically" to the designation.	
2.2 If the will-maker has multiple wills in different jurisdictions, ensure that a revocation clause in any one will does not inadvertently revoke other existing wills.	
3. WILL-MAKER'S DECLARATIONS	
3.1 Declaration that the will is being made in contemplation of marriage. Note that under *WESA*, marriage will no longer revoke a will, but it may still be prudent to mention an anticipated change in circumstances.	
3.2 Declaration that the will is being made in contemplation of divorce or separation. If the will-maker wants a gift to spouse or appointment of spouse as trustee to survive the separation, the will should clearly state this intention to overcome the presumption in *WESA*, s. 56.	
3.3 Declaration that the will disposes of only assets in a particular jurisdiction.	
3.4 Special clause declaring that the will-maker has a will disposing of property in another jurisdiction. Ensure that the revocation clause does not revoke those wills.	
3.5 Statement of the will-maker's domicile or residence, if in doubt.	
3.6 Other declarations as required (e.g., insurance designation).	
4. EXECUTORS AND TRUSTEES	
4.1 Primary appointment.	
.1 Appointment.	
.2 Name(s) and address(es).	
.3 Occupation(s) or relationship(s).	
4.2 Substitute executors and trustees.	

ACTION TO BE CONSIDERED	NOTES
.1 Event requiring substitution (e.g., predecease or refusal/inability of the original trustee to act or to continue to act).	
.2 Name(s) and address(es).	
.3 Occupation(s) or relationship(s).	
.4 Consider granting the power for the substitute executor(s) to appoint a replacement executor in their own will.	
4.3 Consider the use of a "majority rules" provision in a will with multiple executors/trustees. Beware of circumstances in which it would not be appropriate. Consider whether an independent trustee must be a member of the majority.	
4.4 Define the term "trustee" to include executor and trustee, original or substituted, if both the executor and trustee roles will be filled by the same person or persons.	
4.5 Consider a charging clause if the executor is a lawyer, accountant, or other professional.	
4.6 Executors' compensation.	
.1 Consider whether a gift in the will is meant to be in lieu of executor's compensation.	
.2 If any institutional executor is appointed, refer specifically to a governing fee agreement.	
5. GUARDIANS	
5.1 Event triggering appointment of guardians (e.g., death of surviving spouse or former spouse sharing custody).	
5.2 Appointment. Avoid appointing married couples as guardians; choose the party with the closest relationship to the will-maker to avoid problems if the marriage breaks down. Consider provisions affecting the appointment of a guardian in *Family Law Act*, s. 39 and Part 4, Division 3.	
.1 Name(s) and address(es) of guardian(s).	
.2 Relationship(s) or occupation(s).	
.3 Full names of children.	
5.3 Gifts to guardians in addition to or in lieu of guardian's compensation. See *Trustee Act*, R.S.B.C. 1996, c. 464, s. 88, in this regard.	
6. FUNERAL WISHES	
6.1 Point out to the client that the wishes are binding on the executor unless they are unreasonable, impracticable, or cause hardship (*Cremation, Interment and Funeral Services Act*, S.B.C. 2004, c. 35, s. 6). Recommend that the client advise the family of these wishes, as the funeral usually precedes reading of the will.	
6.2 Burial or cremation.	
6.3 Organ donation (see item 5.2.3 of the WILL-MAKER INTERVIEW (G-2) checklist).	

ACTION TO BE CONSIDERED	NOTES
6.4 Wishes for a funeral or memorial service (or none), party, wake, memorial bench or similar, and powers to trustee to pay all such expenses from estate.	
6.5 Consider putting these wishes into a memorandum of the will-maker's wishes. However if the will-maker's wishes would involve exceptional expenses, such as an extravagant party or paying for travel for out-of-town family members, the powers to pay such expenses should be included in the will.	
7. BEQUEST OF GENERAL ESTATE	
7.1 To trustee(s).	
7.2 Upon stated trusts (see item 8).	
8. TRUSTS	
8.1 Administrative trusts. There are preliminary matters to which the executors are required to attend:	
.1 Call in the property of the estate and convert it into money. Consider including a power to postpone the conversion.	
.2 Payment of debts, taxes, and testamentary expenses. If there are additional wills for property in another jurisdiction, consider which estate should (or has the ability to) pay taxes arising on the deemed disposition of particular assets.	
8.2 Bequests of specific articles. Consider the use of a memorandum made before the will, incorporated by reference into the will, if there is a long list of specific bequests.	
.1 Describe articles in enough detail to identify them. Consider the impact of ademption (i.e., identify a substitute gift in case a specific article contemplated is disposed of prior to the will-maker's death).	
.2 Identify beneficiary; name(s), address(es) and relationship.	
.3 Consider a provision for packing, insurance, and freight charges. Does the will-maker wish the estate or the beneficiary to pay?	
.4 Consider the effect of *WESA*, s. 47, if any personal property is encumbered (e.g., automobile loans). Specify in the will whether the liabilities are to be paid by the estate or assumed by the beneficiary.	
8.3 Disposition of personal effects.	
.1 Bequest to spouse.	
.2 Bequest to children or other relatives.	
(a) As they may agree amongst themselves (or failing such agreement, as the executor shall determine).	
(b) Consider use of a non-binding statement of wishes to guide the children and the executor.	
.3 Bequest to executor or another person together with a general power of appointment, with or without a non-binding list of wishes.	
8.4 Cash legacies.	

ACTION TO BE CONSIDERED	NOTES
.1 Individuals. Carefully identify the beneficiaries, including names and relationships. Consider the potential adverse impact of an outright gift to any disabled beneficiary (see item 13.10).	
.2 Charities. Ensure that the charity is specifically identified, including its branch, if the will-maker desires. Consider naming an alternate beneficiary in the case of the non-existence of the designated charity at the date of the will-maker's death, or including a cy-près clause.	
8.5 To invest.	
8.6 To accumulate income.	
8.7 Provision for spouse.	
.1 Survivorship clause.	
.2 Gift of all or a portion of the estate.	
.3 Qualifying spousal trust	
(a) Define the property included.	
(b) Income to spouse.	
(c) Designate remainder beneficiaries.	
(d) Power of encroachment, as applicable.	
(e) If tax deferral is desired, ensure that the requirements of the *Income Tax Act*, R.S.C. 1985, c. 1 (5th Supp.), for a testamentary spouse trust are met, including the requirement that the spouse or common-law partner be entitled to *all* trust income during their life and that *only* the spouse or common-law partner is entitled to receive or otherwise obtain the use of income or capital during their life (see *Income Tax Act*, s. 70(6)(b)). Further, vesting of property in the spouse trust must occur immediately "as a consequence of death" and should not be stated to be contingent on the spouse surviving for a five-day or longer period.	
8.8 Disposition of the family residence.	
.1 Gift outright to spouse or adult children.	
.2 Occupancy trust for spouse or children.	
(a) Payment of taxes, insurance and other expenses. Is the estate or are the beneficiaries responsible? If the estate is responsible, specify the source of the funds.	
(b) Maintenance. Is it the responsibility of the estate or the beneficiaries? Who pays for capital repairs?	
(c) Income in lieu of occupation.	
(d) Right of trustee to sell the home and buy another.	
(e) Events which might end the trust, such as death, beneficiaries reaching a certain age, or ceasing to reside in the property for a specified period. Specify what happens to property or proceeds of sale when the trust ends.	
(f) Restricting use to the personal use of the beneficiaries.	
8.9 Provision for children.	

ACTION TO BE CONSIDERED	NOTES
.1 Income or fully discretionary trust to provide for children until majority or other specified age: (a) Power to encroach and to pay to guardian of a minor. (b) Circumstances in which power should be exercised. Consider using a letter of wishes to address will-maker's non-binding preferences regarding trustee's exercise of discretion. .2 Provision for disabled children. Consider a qualified disability trust or other fully discretionary trust for the child's lifetime. See item 13.10. .3 Bequest of property (share): (a) On majority. (b) At specified age. .4 Gift over on lapse or on failure of the beneficiary to survive to a specified age.	
8.10 Residue. .1 To spouse. .2 To children. .3 Effect of predecease. .4 Gift over on lapse.	
9. TRUSTEE'S POWERS The will-maker grants the trustee powers to enable him or her to deal with the assets in the estate and to carry out the trusts in the will. 9.1 Investment powers (see the *Trustee Act*, ss. 15.1 to 15.6 and 17.1, which have replaced the former list of authorized investments with a "prudent investor" standard). 9.2 General powers. *WESA*, s. 142, gives the executor a broad general authority to deal with estate assets, subject to a contrary intention in the will, but this provision does not extend to a trustee. Include a similar general power in the will, extending to the "Trustee" in their capacity both as executor and trustee. 9.3 Specific enabling powers to: .1 Make payment to parent, or to guardian in the case of an infant. .2 Delegate trustee duties (including investment powers). .3 Repair and improve property. .4 Insure the estate property. .5 Grant and deal with leases and options. .6 Compromise or settle claims against the estate. .7 Borrow on behalf of the estate, and give security. .8 Employ professionals or tradespeople. .9 Subdivide land.	

ACTION TO BE CONSIDERED	NOTES
.10 Exercise all the rights and powers of an individual with respect to investments.	
.11 Allocate tax benefits amongst beneficiaries, and make all elections and designations.	
.12 Postpone distribution.	
.13 Carry on business.	
.14 Same powers as the will-maker with respect to corporation, including power to reorganize.	
.15 Loan trust property, with or without security.	
.16 Distribute in specie (including appreciated securities in satisfaction of a charitable legacy).	
.17 Sell real estate.	
.18 Purchase.	
.19 Invest in real estate, even if it is not income-producing, or other non-income–producing property for a disabled beneficiary.	
9.4 Special powers.	
.1 Purchase property personally from the estate.	
10. DESIGNATION OF BENEFICIARIES	
10.1 Insurance (consider the effect of *Re Carlisle*, 2007 SKQB 435, which concerns designating an insurance trustee as beneficiary where the insurance trustee is also named as executor of the will).	
10.2 RRSP, RRIF, TFSA, or employee benefit plans. (Consider the tax implications of death of the annuitant. See *WESA*, Part 5.) Note that plans administered by insurance companies continue to be governed by the *Insurance Act*, S.B.C. 2012, c. 1.	
10.3 Pension. (Consider the impact of the *Pension Benefits Standards Act*, S.B.C. 2012, c. 30, which applies to survivor rights and transferability of pension assets.)	
10.4 Confirm that proceeds pass to designated beneficiaries with no resulting trusts.	
11. ATTESTATION CLAUSE	
11.1 Boilerplate clause indicating that all steps required by *WESA*, s. 37 have been met.	
11.2 Consider special clauses in attestation in unusual circumstances, e.g., where the will-maker does not speak English, is too weak to sign, or is blind.	
12. MISCELLANEOUS DRAFTING POINTS	
12.1 Wills are drafted in the first person.	
12.2 Consistency in terminology is important for interpretation. Consider use of definitions (e.g., define “discretion”).	

ACTION TO BE CONSIDERED	NOTES
12.3 Care in use of tense is important. The will-maker in appointing executors and trustees, and in making gifts, is speaking from the date of the will, i.e., the present tense. Instructions to executors and trustees should be in the future tense.	
13. SOME COMMON TRAPS TO AVOID	
13.1 Rule in *Saunders v. Vautier* (1841), 49 E.R. 282 (Ch. Div.). Where there is an absolute vested gift made payable at a future event (usually the beneficiary reaching a stipulated age), with directions to the trustees to retain possession and accumulate the income or pay it to the beneficiary, the beneficiary is entitled to have the property transferred to him or her when they reach the age of majority, unless a gift over is provided.	
13.2 Rule against perpetuities, as modified by the *Perpetuity Act*, R.S.B.C. 1996, c. 358. For long-term trusts, consider adopting the 80-year vesting period referred to in s. 7.	
13.3 Do not use "issue" as a synonym for "children" because its *prima facie* meaning is "descendants of any degree". This may mean that a provision that the draftsman believed to be valid contravenes the rule against perpetuities; it can also cause administrative and interpretation difficulties.	
13.4 Avoid (or use carefully) the terms "survive" and "survivors", and "in equal shares per stirpes", since they may give rise to problems of construction.	
13.5 If a class gift is created, clearly identify the time at which membership in the class is to be determined (e.g., the will-maker's death).	
13.6 Protect a gift from "lapsing" by identifying alternate beneficiaries to prevent a lapsed gift from unintentionally passing to the intended beneficiary's descendants. (Note *WESA*, s. 46, and also consider the effect of survivorship provisions in *WESA*, ss. 5, 6, 9, and 10.)	
13.7 Clearly identify the assets of any specific bequests and consider the consequences of ademption if the will-maker sells or otherwise disposes of the asset during their lifetime.	
13.8 Avoid any potential for double payments of cash legacies under mirror image wills that provide for identical cash legacies (typically, complementary spouse wills, each with a survivorship clause). Include a "no doubling" clause.	
13.9 Ensure that the terms "per stirpes" and "per capita" are used correctly if at all. Consider using other words, or defining the terms.	
13.10 If the will-maker intends to make an outright gift to a disabled beneficiary, consider whether the beneficiary would be capable of receiving and managing the gift, and whether the gift would diminish any government benefits or require significant expense to rearrange the gift in order to preserve benefits. Consider the benefits of a discretionary trust or a "qualified disability trust" (*Income Tax Act*, s. 122(3)).	