

Planning



well known as an expert on the insanity defence. He was appointed to serve on an American Psychiatric Association () panel that advised the Supreme Court on psychiatric issues.

But as established in his career as he was, Dr. Lynch's studying days weren't over. In 1994, the created a sub-specialty in forensic psychiatry. "The decided that there were 356 people in the U.S., Canada, and Great Britain who were eligible to take the exam, myself included," recalls Dr. Lynch. "I had hoped that they would grandfather me in. But no such luck. So, at 61, I took the first forensic psychiatry exam, and I passed."

Michael Lynch has many career successes to look back on, but his proudest professional accomplishment is his work in treating depression. "I was able to help people get well, many of them who were sick for years, not properly diagnosed. I cannot tell you how emotionally rewarding that was."

He goes on to say, "Getting into medicine gives you an opportunity to serve your fellow man. My career in forensic psychiatry and in treating depression was the most rewarding thing I could have done."

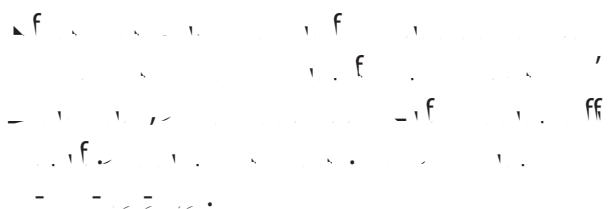
etting through medical school takes a lot of hard work, skill, perseverance ... and resources. To honour the people who, through their own hard work, skill, and perseverance, made his life journey possible,

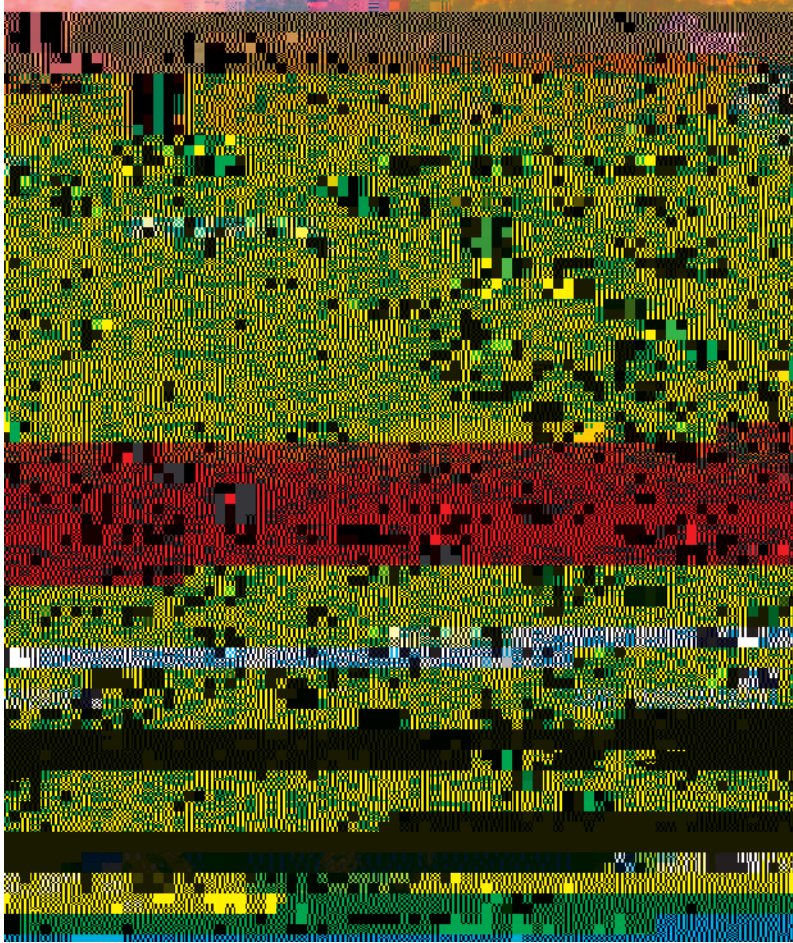


Michael Lynch, Meds'58, set up funds to help the next generation of medical students at Queen's. These awards are given annually on the basis of financial need and academic achievement.

- The Dr. M. Gerald Lynch Award in Medicine for students entering the second year of Queen's Medicine
- The Michael Joseph Lynch Excellence Award in Medicine for students entering the third year of Queen's Medicine
- The Dan Lynch Award for students entering the final year of Queen's Medicine

Dr. Lynch has also generously remembered Queen's in his estate. His bequests will ensure that the awards that he set up will grow in years to come and will also establish a Chair in Psychiatry. Dr. Lynch's gifts to Queen's will not only reduce the financial burden for medical students, they will also provide resources to recruit leading faculty and ensure continued excellence in medical education and research.





Iris bleus, jardin du Petit Gennevilliers,

by Vincent van Gogh, 1889. The painting is a landscape showing a field of yellow and green flowers in the foreground, with a red and blue sky in the background. The painting is a reproduction of the original work, which is held in the collection of the Musée d'Orsay in Paris.

Cultural Property Export and Import Act;

Loi sur l'exportation et l'importation des biens culturels,

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history or national life, its aesthetic qualities, or its value in the study of the arts or sciences. Further, the Federal Court of Appeal overturned the lower court's decision and confirmed that objects may still form part of Canada's national heritage even if the object or its creator do not have a direct connection to Canada.

Canada provides enhanced tax incentives to encourage donations of cultural property to certain cultural institutions in Canada, including Queen's University. The Heffel case had raised concerns that some donations of artwork that are of outstanding significance, but of foreign origin, may not qualify for these enhanced tax incentives. Those concerns have

now been resolved. Significant cultural objects that originate outside Canada do not require a direct connection to Canadian cultural heritage to qualify for these enhanced tax incentives. Therefore, they should be included in any comprehensive philanthropic gift planning.

Loi sur l'exportation et l'importation des biens culturels,

BY MARGARET O'SULLIVAN

An executor “executes” your will, carrying out the terms of your will and administering your estate. An executor is responsible for collecting assets; satisfying debts; filing income tax returns and paying all taxes owing; paying legacies (cash amounts provided in your will); carrying out specific bequests of property, such as real estate and personal effects; and distributing the remainder of your estate to those entitled under your will.

The executor role is confined to “settling” the estate, whereas the trustee role applies if there are continuing trusts under the will (as opposed to an outright distribution). The trustee role includes managing any trusts under the will until they terminate in accordance with the terms provided by the will. The trustee looks after investment management, income and capital distributions, annual tax compliance,

DECISION MAKING: Where more than one executor is appointed, the legal rule is that all executors must unanimously agree on any decisions. To facilitate decision-making (and avoid deadlocks), your will can include a majority decision clause to allow for majority rule. This provision can also include a requirement for one or more named persons to be in the majority, effectively giving them a veto.

REPLACEMENT AND ADDITIONAL EXECUTORS: Your will can also provide a mechanism to name replacement executors to ensure there is always a sufficient number to allow appropriate succession of the executorship. Your will can also give a specific person the power to appoint additional executors.

COMPENSATION: Each Canadian jurisdiction allows for executors to claim compensation, but the amount is often not fixed and is subject to court discretion, and this can result in disputes and legal fees. It is important to consider whether there should be express provisions in your will to deal with compensation. If you wish to compensate your executor, you should state the amount of compensation, whether this is determined through a formula, a fixed amount, an hourly rate based on time spent, or a combination of these approaches.

NON RESIDENT EXECUTORS: Complex issues arise under Canadian tax rules if an executor is not a Canadian resident. The tax residence of an estate is considered to be where its “mind and management” is, which is often – but not necessarily – where a majority of

executors reside. As well, if an executor is not a Canadian resident, some jurisdictions require a bond or other security to be posted to protect the beneficiaries. This bond can, in some cases, be reduced or dispensed with. It's important to get legal advice to address these considerations. There are also issues with U.S. resident executors being able to give instructions on investment accounts with certain Canadian financial institutions if they aren't licensed to provide investment advice to a U.S. resident under U.S. securities rules.

CHARACTER: In appointing your executors, you are giving them full control over all that you have spent your lifetime building. You want to choose someone who is trustworthy, impartial, and fair.

BUSINESS RELATIONSHIPS: A business partner may not be an appropriate choice if they have an economic conflict with your estate and its beneficiaries. An executor must act only in the best interests of your estate and its beneficiaries. Business and financial acumen are important, and some or all of your executor team should have these skills. Equally important are willingness, interest, and availability to take on the role of executor.

FAMILY RELATIONSHIPS: In appointing their children to be executors, many people assume that the siblings will all work together. But realistically, power dynamics often change after parents die, and fractiousness can arise among family members. Having a neutral executor who is not a family member may be a solution. Neutral executors can include a

family friend or one or more professional executors, such as a professional adviser or trust company.

There's no license or qualifying course to become an executor, and yet the role has enormous responsibility, as well as liability. It's becoming increasingly complex, given changing laws and tax rules.

Choosing your executors requires you to keep in mind a number of factors. Making a careful, informed, and thoughtful choice will give you the peace of mind that you have done your best for your family and those who will be your beneficiaries.

