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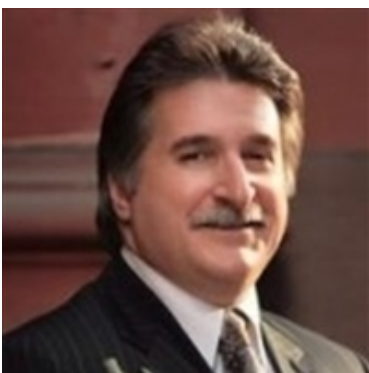
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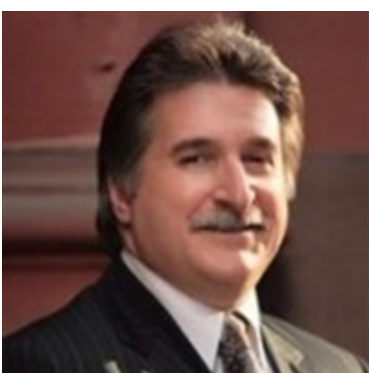
**Estates & Wills & Trusts**

# Lawyer allegedly murdered father using forged POA



By [Charles Ticker](#)

Susan Van Note, an estate planning lawyer in Missouri whose practice focuses on end of life issues, has been charged with felony forgery and first-degree murder in connection with the death of her father. [Read Indictment](#) ... [Watch Video](#)



Her father, William Van Note, was a successful accountant and his estate was valued in excess of \$1.5 million. William Van Note was about to marry his girlfriend of 20 years who stood to inherit his cash and several homes. In 2010, someone broke into William Van Note's luxury home, shooting him and his girlfriend, Sharon Dixon. Dixon was killed immediately but William Van Note, who was critically injured, survived and was taken to hospital with a gunshot wound to the head.

It is here where the story takes a strange turn.

Apparently, while on life support at the hospital, his accused daughter Susan Van Note presented the doctors with what is alleged to be a forged power of attorney for health care (in Ontario a similar document would be called a power of attorney for personal care). The document was apparently relied upon by the doctors to take William Van Note off of life support. Published reports state the power of attorney contained a direction that William Van Note did not wish heroic measures to be taken to save his life.

According to published reports, Susan Van Note's defence will argue she only signed the power of attorney that was presented to the doctors as she could not find the original signed copy. These strange facts raise the question of whether something like this could happen in Ontario.

In Missouri, Susan Van Note is charged with felony murder - in other words, she is alleged of committing a felony (forgery) which, as a result, led to her father's death.

The Criminal Code of Canada provides several definitions of murder, one of which provides:

229. Culpable homicide is murder

(c) where a person, for an unlawful object, does anything that he knows or ought to know is likely to cause death, and thereby causes death to a human being, notwithstanding that he desires to effect his object without causing

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death or bodily harm to any human being.

R.S., c. C-34, s. 212.

An argument could be made that the accused ought to have known that by instructing the doctors to take her father off life support, it was likely to cause his death and that she gave those instructions for an unlawful object, that is she was attempting to obtain access to his estate when she knew or ought to have known that it was going to someone else.

I think it would be a pretty tough case to make. One must remember that Susan Van Note has also been charged with actually being involved in the murder in addition to directing the doctors to withdraw life support.

Had this situation happened in Ontario, William Van Note might have benefited from s. 27 of the [Health Care Consent Act](#), 1996 (the "Act") which provides:

*Emergency treatment despite refusal*

27. If consent to a treatment is refused on an incapable person's behalf by his or her substitute decision-maker, the treatment may be administered despite the refusal if, in the opinion of the health practitioner proposing the treatment,

(a) there is an emergency; and

(b) the substitute decision-maker did not comply with section 21.

1996, c. 2, Sched. A, s. 27.

Section 21 of the Act sets out the principles for giving or refusing consent. The first principle is that the substitute decision-maker should act in accordance with the wishes that the incapable person expressed while capable. In the Van Note case, there was a direction in the power of attorney that William Van Note did not wish for heroic measures to be taken if he was on life support. Of course, if he knew that the person acting as his substitute decision-maker was going to be charged with his murder, he might not have indicated a wish to be taken off life support.

Section 21 of the Act further provides that if a substitute decision-maker does not know of the wish applicable to the circumstances that the incapable person expressed while capable, the substitute decision-maker is to act in the incapable person's best interests.

Accordingly, while I think it is theoretically possible that a person using a forged power of attorney for personal care in Ontario could be charged with murder, I think the prosecution would only be successful if it could be shown beyond a reasonable doubt that the person was acting in pursuit of an "unlawful object."

However, an attorney acting in bad faith could possibly be subject to a civil claim for damages for wrongful death.

Notwithstanding the bizarre facts of this case, everyone needs to have powers of attorney for personal care and management of their property as part of their estate plan. Do-it-yourself kits are not recommended. Professional advice should be obtained.

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