

## **POWERS OF ATTORNEY**

### *What is a Continuing Power of Attorney for Property?*

If you are no longer able to make financial decisions, a *Continuing Power of Attorney for Property* (CPAP) allows you to exercise control over your financial affairs. A CPAP is effective the moment you sign it unless you specify in it that you want it to be effective at a later date, or in particular circumstances.

You should appoint an attorney or attorneys who will only act in your best interests and who are knowledgeable about your financial matters. If you want your attorneys to be able to act separately, the CPAP must specify that they are to act “jointly and severally”, which means together or separate.

After you sign the CPAP, two witnesses should sign in the presence of each other and in your presence. There are restrictions on who can be the witnesses. The named attorney and his or her spouse, your spouse or partner, your children, and others close to you cannot be the witnesses.

### *What is a Power of Attorney for Personal Care?*

If you are no longer able to make personal care decisions relevant to health, nutrition, shelter, clothing, hygiene or safety, or unable to appreciate what is likely to happen if a particular decision is or is not made, a *Power of Attorney for Personal Care* (PAPC) will instruct a trusted attorney or attorneys to carry out your instructions and wishes.

Unlike a *Continuing Power of Attorney for Property*, which becomes effective immediately upon signing, a PAPC cannot be used until you become mentally incapable of making personal care decisions generally or making specific decisions. Your attorney is only authorized to make decisions about those aspects of your personal care that you cannot make yourself.

Your PAPC may contain instructions for, and restrictions on, your attorney’s authority in any category of personal care. Your attorney must carry out your instructions and wishes responsibly unless those instructions are illegal or impossible.

### *What if I don’t have a Power of Attorney?*

If you have not made a CPAP or a PAPC and you become incapacitated, the *Substitute Decisions Act, 1992* provides a process by which your partner or other close person may apply to become a guardian of your property or person.

*If you need a power of attorney or would like to discuss other estate planning options, please call **Sharon Warden or Laura Wright at Warden Wright LLP.***

*This article is intended to provide general information about the law. However, legal information is not the same as legal advice -- the application of law to an individual's specific circumstances. Although we go to great lengths to make sure our information is accurate and useful, we recommend you consult a lawyer to ensure that the information, and your interpretation of it, is appropriate to your particular situation.*