

POWER OF ATTORNEY FOR PERSONAL CARE

The Wills Lawyer



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In a previous article, I discussed how a continuing power of attorney for property can protect you. Similarly, we will now look at the manner in which a power of attorney for personal care can be of assistance to you, in the event you lose your ability to make decisions regarding your health and personal care matters. I would like to examine some of the issues you should be aware of as they relate to a power of attorney for personal care.

1. The power of attorney for personal care is often referred to as a medical and personal care power of attorney.
2. With a power of attorney for personal care, you can ensure that someone you trust has the right to step in and make health and personal care decisions for you, in the event that you become incapable of making these decisions for yourself.
3. The power of attorney for personal care is a separate and distinct document from the continuing power of attorney for property. You are allowed to appoint the same person to represent you on both your continuing power of attorney for property and on your power of attorney for personal care.
4. As is the case with a continuing power of attorney for property, it is important to appoint someone you trust to make these very important decisions for you. In many cases, spouses appoint each other and as an alternative, one or more of their children.
5. You may feel it is unfair to appoint one out of three children as attorney for personal care, but would you want all three of your children potentially fighting in front of a doctor? You should pick someone who you feel is the most dedicated to you, and will be the most likely to carry out your wishes. It is not an easy job, so do not think that you are hurting someone's feelings by not appointing him or her. You should speak with your children and find out whether indeed they want to be appointed as attorney for personal care.
6. You should also consider logistics. If you appoint all of your children, are they all able to look after you? You should know that, if there is more than one person you want to appoint, you can appoint them jointly which means that they have to act together, or jointly and severally, which means any one of them can act alone. If you have three people you want to appoint, you may consider including a majority clause.
7. The person or persons you appoint cannot be compelled to act for you, so you should make sure that whoever it is that you appoint will want to act for you. This is why it is important to appoint an alternate, in case your first attorney is unable or unwilling to act for you. Your attorney for personal care will have various powers, including the ability to have access to your medical records, to deal with doctors, to deal with the possibility of your admission to a nursing home, etc. Having a power of attorney for personal care in place can help reduce family friction and fighting because in that document, you will be setting out in advance who you want to deal with these matters and what you want them to do.

I am a wills lawyer with the law firm of Fish and Associates, 7951 Yonge Street, Thornhill, Ontario (Yonge and Royal Orchard). We are located in a turn of the century home with plenty of free parking. The atmosphere is relaxed and we speak plain language.

If you have powers of attorney and a will, I will be pleased to review them for free to make sure they are up to date and not a recipe for a family disaster. If you do not have powers of attorney and a will, I would be pleased to provide a free will and power of attorney consultation to help you understand this complicated area of law.

To contact Michelle Kotzer you can call 905-881-1500 Ext 22 or email her at mkotzer@fishlaw.ca. Please visit michellekotzer.com or powerofattorneyinfo.com for more information.