



What is a Power of Attorney and Why Do I Need One?

Smart planning goes a long way and it can protect your wishes, your assets and the people you care for. Elise Allan, a Partner & Solicitor at Nixon Wenger LLP, answers some of the most common questions asked about a Power of Attorney (POA).

What Incapacity and Estate Planning Documents Do I Need?

We recommend you have a Power of Attorney, Representation Agreement, and Will.

What Is a Power of Attorney and Why Do I Need One?

A Power of Attorney is a legal document that you can use to appoint a trusted person(s) to make financial and legal decisions for you, in the event you are incapable of doing these things yourself while you are alive. The person you appoint is called your “attorney”. You can give your attorney broad powers to step into your shoes as needed to deal with your finances and your real estate or your business and legal matters, OR you can place limits on the power that you give them. A Power of Attorney is a valuable part of your estate and incapacity planning.

Who Should I Choose as my Attorney?

You should appoint someone you trust because a Power of Attorney is a powerful document. Many people choose their spouse, a close family member or friend. A person does not have to agree to act as your attorney, so you should talk to them ahead of time and make sure they are up for taking on the job.

You can appoint more than one attorney, with different or the same authority. If you appoint more than one, they must act unanimously unless you state otherwise.

What Are the Duties of My Attorney?

The Power of Attorney Act of B.C. confirms that an attorney must act honestly and in good faith, must exercise the care and skill of a reasonably prudent person, keep proper records for inspection, keep your assets separate from your attorney’s assets, and always act in your best interests.

Does a Power of Attorney Allow my Attorney to Make Health Decisions For Me?

No. If you want to appoint a legal representative to make personal and health care decisions for you if you cannot make these decisions on your own, you will need to make a Representation Agreement.

Can I Cancel my Power of Attorney if I Change My Mind?

Yes. As long as you are mentally capable, you can revoke/cancel a Power of Attorney.

We at Nixon Wenger LLP specialize in estate and incapacity planning. Please contact us and we would be happy to help you prepare a Power of Attorney as part of your complete estate and incapacity plan.

Elise Allan is a Partner at Nixon Wenger LLP who works extensively with individuals, assisting them in such matters as the purchasing and selling of real estate, preparing Wills, Powers of Attorney and Representation Agreements as well as obtaining Grants of Probate.

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