

PLAN FOR YOUR TOMORROW TODAY – PART 2

When dealing with a power of attorney, you are really dealing with substitute decision-making. The same idea of substitute decision-making underlies a health care directive. Both a power of attorney and health care directive form an important part of a properly planned estate. These are two separate documents. However, a health care directive is also referred to as a power of attorney for health care or power of attorney for personal care, an advance directive or a living will. The common denominator in the named documents is the person you, the donor, appoint and give authority to make personal and health care decisions on your behalf if you become incapable of making personal care decisions.

In Nova Scotia, a health care directive is governed by the Medical Consent Act. A health care directive can be written with or without instructions and can be as specific as you want it to be. The important focus of the document is the appointment of the person whom you choose to make personal and health care decisions for you. The person you choose must be at least 19 years of age, of sound mind and must be capable of giving consent to medical treatment or directions respecting medical treatment. The person who makes the power of attorney, the donor, must also be at least 19, of sound mind and have the capacity to make health care decisions or give directions regarding medical treatment.

As mentioned in previous articles, a power of attorney and a health care directive act in conjunction with a well-constructed and up-to-date will. Together, these documents ensure that your affairs and assets are managed appropriately and by the person of your choosing when you no longer have the capacity to make decisions for yourself.

I cannot express enough the fundamental importance of planning for future incapacity. By making a health care directive well in advance, you will be planning for future incapacity because you never know exactly when you may become incapacitated. The key is to plan ahead and be prepared.

Sanaz Gerami is a lawyer with Parkland Law practicing in the areas of Elder Law, Wills & Estate, Powers of Attorney, Family, Incorporations and Immigration Law. She can be reached by phone at (902) 444-3998, or via email at: sanazgerami@eastlink.ca. Sanaz is a member of Serving-Seniors Alliance.