

ESTATE PLANNING INFORMATION SHEET

Wills, Enduring Powers of Attorney, and Personal Directives are important estate planning documents which allow us to ensure our wishes regarding our property, finances, and health care decisions are communicated and followed in the case of death or mental incapacity. Your lawyer will discuss each of these documents with you in detail at your initial consultation, as well as your estate planning goals and wishes. However, this Information Sheet is provided to help you begin thinking about the questions your lawyer will ask and the instructions you would like to provide about how we should draft your Will, Power of Attorney, and Personal Directive. Please feel free to write down questions you may have for your initial consultation – estate planning is a complex area of law, and our goal is to make sure you understand these documents and how they will be used.

Your Will

In a nutshell, a Will is used to appoint someone (an executor) to be responsible for your estate and to indicate who you would like to inherit your property (called a beneficiary) when you pass away. Guardianship of minor children, funeral wishes, and tax planning can also be addressed when making a Will.

What to Think About When Making a Will:

- What does your estate consist of? What property do you own (real estate, vehicles, financial investments, RESPs or RDSPs, pensions, valuable collections)? What debts do you have? Are your property and debts yours alone, or do they belong to you and another person?
 - If you own real estate with another person, we recommend checking your title certificate to see if you are joint tenants or tenants-in-common
 - If you have life insurance, RRSPs, RRIFs, or other financial investments with named beneficiaries, who are these beneficiaries?
 - If you have RESPs or RDSPs, please bring the policies to the initial consultation
- Who do you want to be responsible for your estate when you pass away? If this person cannot do it, who else would you like to act?
- What are your funeral wishes?



- If you have minor children, who would you like to be their guardian if you and their other parent cannot be? Who can be an alternate guardian if your first choice cannot act?
- Who do you want to give your property to?
 - Do you want to give everything you own to one person or to a few people?
 - Do you have a specific item of property you want to give to a certain person? For example, you may wish to give your piano to your son who loves music.
 - If you survive all of these people, then who do you want to have your property?
- Please note that minors under the age of 18 cannot legally receive a gift from a Will. In this case, a trust is created to hold the property for the minor until he or she attains the age stipulated in the Will (this can be 18 or older).
 - If you would like to give property to someone who is under 18 right now, at what age should he or she get the property?
 - If the property is of substantial value, it can also be given to the beneficiary in stages. For example, this person can get 5% at age 18, 10% at age 20, and the remainder of the property at age 25.
- Do you want to pay your executor? This payment will be taxed as income. Your executor is also entitled by law to be reimbursed for out of pocket expenses associated with administering your estate.

Your Enduring Power of Attorney

An Enduring Power of Attorney allows you to appoint someone (called an Attorney) to manage your property and finances while you are still alive, but are no longer capable of managing them yourself (usually through mental incapacity). An “Enduring” Power of Attorney remains effective after you lose capacity and allows your Attorney to continue to act on your behalf.

Your Will does not apply while you are alive – a Will takes effect upon death, and your executor has no authority to act until you have passed away. As such, Enduring Powers of Attorney and Personal Directives (which are discussed in more detail below) are important documents which ensure your affairs can be managed in all circumstances.



What to Think About When Making an Enduring Power of Attorney:

- Who do you want to appoint as your Attorney to manage your property and financial affairs for you? Do you want this person to be able manage your estate for you immediately, or only when you have lost the mental capacity to do so?
- If your first choice of Attorney cannot act, who do you want to appoint as an alternate Attorney?
 - Please bring your Attorney and alternate Attorney's addresses with you to the initial consultation
- If your Attorney will manage your affairs for you when you have lost capacity, who would you like to decide that you have lost capacity? This can be your spouse or a family member, though we recommend having a medical doctor or psychologist participate in the decision as well.
- Will your Attorney have unlimited authority to manage your estate, or do you want to place restrictions on what your Attorney can do on your behalf?
 - For example, you may stipulate your estate can be used for your benefit only, or you can give your Attorney the ability to give gifts to loved ones.
- Your Attorney must keep records of how your property and finances are used. Should your Attorney have to show these records to someone on a regular basis? If so, who? Please bring this person's address and phone number to the initial consultation.
- Do you want to pay your Attorney for acting on your behalf? Your Attorney can also be reimbursed for out of pocket expenses.
- Is there someone specific your Attorney must notify if you lose capacity? Please bring this person's address and phone number to the initial consultation as well.

Your Personal Directive

A Personal Directive is used in Alberta to appoint someone (called an Agent) to make personal decisions, which include decisions about your residence, employment, and health care, for you after you have lost capacity. This document is called a Health Care Directive in Saskatchewan, but a Health Care Directive only appoints someone to make health care decisions for you.

The questions below relate to a Personal Directive, as it covers a broader range of authority. Please consider these questions even if you are a resident of Saskatchewan,



as we will still discuss them with you. Saskatchewan law allows an Attorney to make personal decisions for someone under an Enduring Power of Attorney, and we will draft your documents accordingly.

What to Think About When Making a Personal Directive/Health Care Directive:

- Who do you want to appoint to make personal and health care decisions for you when you have lost capacity? If this person cannot act, who will your alternate Agent be?
 - Please bring the addresses and phone numbers of these people to your initial consultation.
- What medical treatments are you willing to receive? What medical treatments would you refuse?
 - How long do you want to be kept on life support?
 - Would you consent to a blood transfusion?
 - Should you be given strong drugs, such as morphine, to manage pain?
- Would you like to donate your organs and body tissue for transplant purposes AND/OR medical research after death?
 - If you donate organs and body tissue for transplant, do you want your family members to be given first priority to them?
- Would you be willing to donate an organ or body tissue (such as a kidney or bone marrow) for transplant purposes or medical research while you are still alive?
- If you are going to be taken off life support, would you like last rites to be given to you?
- Your Agent is required to keep records of the decisions made for you by law. Should your Agent show these records to anyone on a regular basis? If so, please bring this person's address and phone number to the initial consultation.
- Is there anyone your Agent must notify if you lose capacity? If so, please bring this person's address and phone number to the initial consultation.



- If you have minor children, who would you like to appoint as their guardian if you and their other parent cannot care for them while you are alive? Who could be an alternate guardian if your first choice cannot act?

Thank you for taking the time to consider these questions. We look forward to meeting with you to begin your estate planning process.