

Choosing your Power of Attorney wisely

I attended the National Elders Planning Issues Conference in Niagara Falls recently. The attendees were made up of health care providers, legal professionals, financial, estate planning advisors and other guests. The conference looked at a number of issues with a variety of speakers.

One session was titled: "A Different Kind of Peace of Mind" presented by Jennifer Moir, BA (Hons) CHS, CRTS, EPC, owner of Age Well Solutions, a company based in Ottawa. Jennifer discussed the need for owners and staff of businesses to become dementia ready for clients who are experiencing cognitive change. Given the longevity we are experiencing today, some of our clients and their families will be affected. She recommended that we develop a plan with policy and procedures and review it with each of our clients. We reviewed the relationship between cognitive change and financial management capacity. We looked at ways to proactively address our professional obligation to act in our client's best interests should concerns about capacity arise without compromising privacy.

Your Power of Attorney for property and personal care can be different people. You can name more than one. It is hoped and expected that they will always act in your best interest. Unfortunately, I have seen that this is not always the case. One of my clients lost her mental capacity permanently. Despite reviewing with the attorney all the benefits of planning we had completed over several years, the plan was changed for convenience... of the attorney. The Power of Attorney chose to transfer all of the client's investments, losing the beneficiary designations of the children. The planning we did, would have allowed the investments to transfer to children on their mother's death, outside of her estate without estate fees, including probate.

Having a properly prepared Power of Attorney for property and personal care is a necessary part of planning for everyone. Despite this, there are an alarming number of people who have never appointed anyone to be their attorney. I guess even a bad attorney is better than no attorney, unless you want the Public Trustees Office of the Province of Ontario to handle your money? If not, better speak to a lawyer or financial professional to help you better understand how to choose wisely.



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