

## **Giving a Power of Attorney**

- clauses 10(1)(b) and (c) and 10(2)(a) and (b) of *The Powers of Attorney Act*

### **A. Determine the Actors**

#### **Actors:**

- **Person A :** the witness
- **Person B:** the donor
- **Person C:** the donor's signatory

### **B. Follow Each Applicable Step**

#### **STEP 1: Confirm identity**

Person A satisfies themselves as to the identity of Person B (and, if applicable, Person C) by way of:

- (a) Person B or C being personally known to Person A; or
- (b) Person B or C proving their identity to the satisfaction of Person A.

#### **STEP 2: Confirm communication method satisfactory**

Person A and Person B (and, if applicable, Person C) confirm that they are able to see and hear one another while the action is being taken.

#### **STEP 3: Confirm Document**

Person A sees the document in Person B's possession before Person B signs it or acknowledges the signing by Person C.

- ❖ **Consider: Who is signing the document – Donor or Donor's Signatory?**

#### **STEP 4A: See Document Signed**

Person A sees Person B sign the document.

**OR**

#### **STEP 4B: See signature and acknowledgement**

Person A sees Person C sign the document, Person A sees Person B acknowledge the signature of Person C, and, if Person B is capable of acknowledging the signature audibly, Person A hears Person B acknowledge the signature of Person C.

**STEP 5: Confirm same document**

Person A sees the document immediately after Person B or C signs it.

**STEP 6: Receive signed document**

Person A receives the signed document and is satisfied that

- (a) it is the same one that Person A saw in Person B's possession;
- (b) the signature on the document matches the one Person A saw being made.

**STEP 7: Sign document and confirm how identity was verified**

Person A signs the document and records in writing that the document was signed through a glass or plexiglass partition or by videoconference and how Person A satisfied themselves as to the identity of Person B (and, if applicable, Person C).

**C. ADDITIONAL REQUIREMENTS OR STEPS**

The donor's signatory is an individual who meets the requirements in subsection 10(2) of *The Powers of Attorney Act*.

The following additional step must be completed:

**STEP 8: Sign power of attorney certificate**

Person A must sign a statement certifying that Person A is not the attorney or the attorney's spouse or common-law partner and to the best of Person A's knowledge,

- (a) the power of attorney was signed by Person B or, if applicable, the signature of Person C was acknowledged by Person B;
- (b) if applicable, Person C is not the attorney or the attorney's spouse or common-law partner;
- (c) Person B appeared to understand the nature of the power of attorney;
- (d) Person B appeared to agree voluntarily to sign or acknowledge the power of attorney; and
- (e) the power of attorney was signed by Person B or, if applicable, Person C while Person B was physically apart from the attorney.

The Power of Attorney Certificate should be placed within the client file.