Enduring Power of Attorney (EPA)

An Enduring Power of Attorney (EPA) is a legal document that allows you to designate someone to manage your financial affairs if you are no longer capable of doing so yourself. This could be due to injury, illness, or mental incapacity.

An Enduring Power of Attorney (EPA) is different from a regular Power of Attorney. A regular Power of Attorney becomes invalid if you lose mental capacity, meaning the person you appointed can no longer make decisions for you. In contrast, an EPA stays valid even if you lose the ability to manage your own affairs. It allows someone you trust to make decisions about your financial matters, such as paying bills, managing investments, or handling property transactions, even if you become mentally incapacitated.

Why Should You Have an EPA?
If you become unable to manage your finances, an EPA ensures that your financial affairs are taken care of by someone you trust, according to your wishes. Without an EPA, your family would need to apply to the court to become your trustee, a process that can be costly, time-consuming, and may result in someone managing your affairs whom you wouldn't have chosen.

Key Features of an EPA:

- Durability: The EPA remains valid even if you lose mental capacity.
- Scope: You can make it as broad or specific as you want.
- Activation: It can be effective immediately or upon a specified event, such as a medical determination of incapacity.
- Termination: The EPA remains in effect until you revoke it, pass away, or a court cancels it.

Who Should Have an EPA?
The Government of Alberta recommends that every adult over the age of 18 have an EPA to protect their financial affairs in case of incapacity.

Benefits of Having an EPA:

- Financial Management During Incapacity: Ensures your finances are managed as you wish if you become incapable of managing them.
- Avoiding Court-Ordered Guardianship: Prevents the need for a lengthy, expensive court process if you lose capacity.
- Alleviating Stress for Family Members: Reduces the burden on loved ones by avoiding legal proceedings.
- Control and Peace of Mind: Lets you decide who will manage your finances and how they will do so.

Steps to Create an EPA:

1. Choose Your Attorney: Pick someone you trust to manage your financial affairs. It's a good idea to also name an alternate.
2. Draft the Document: It's best to work with a lawyer to ensure the document is legally valid and reflects your intentions.
3. Sign the Document: You must sign the EPA in the presence of a witness who is not your attorney or their spouse/partner.
4. Inform Relevant Parties: Notify your attorney and institutions like banks of the EPA's existence.

Conclusion:

Having an EPA is not legally required, but it is strongly recommended to ensure your financial matters are managed according to your wishes in the event of incapacity. It offers peace of mind and helps avoid complicated legal processes. For personalized advice, consult with a lawyer.

For more information, visit the [Centre for Public Legal Education Alberta's website] or the [Government of Alberta's webpage] on Enduring Powers of Attorney.