



POWER OF ATTORNEY FOR PERSONAL CARE

DISCLAIMER: This InfoGuide is intended for use as general information and is prepared for purposes of convenience only. It is not to be relied upon as legal advice or legal authority. If you have inquiries as to legal proceedings, or if you would like more detailed information regarding legislation, you should consult a lawyer.

What is a "power of attorney for personal care"?

- A power of attorney for personal care is a legal document in which you name a person to make decisions about your personal care when you become unable to make those decisions yourself.
- A power of attorney for personal care is different from a power of attorney for property in which you name a person to make decisions for you about your money and other assets. Please see the PPAO InfoGuide on this topic at <http://www.ppao.gov.on.ca/inf-pro.html> for more information.

What are "personal care" decisions?

- Personal care decisions are decisions about your health care and medical treatment, nutrition, shelter, clothing, hygiene and safety.

Why should I have a power of attorney for personal care?

- A power of attorney allows you to *choose* the person who will make decisions for you if you become incapable to make those decisions. If you do not have a power of attorney and a doctor or evaluator finds that you are incapable of making a decision under the *Health Care Consent Act* regarding your health care, admission to a care facility or personal assistance services, the law sets out who will become your substitute decision-maker (usually a family member) and he or she will make these decisions for you.

- You are not required to appoint an attorney for personal care. It is a personal choice.
- For more information about substitute decision-makers, please see the PPAO InfoGuide about this topic at <http://www.ppao.gov.on.ca/inf-sub.html>.

How do I create a power of attorney for personal care?

- You may give a power of attorney if you are at least 16 years old and are capable to do so. You are capable of giving a power of attorney if you are able to understand whether your attorney has a genuine concern for you and that he or she may make personal care decisions for you, if necessary.
- You will need two people to witness you signing the power of attorney. Certain people are not allowed to be witnesses, such as your spouse, partner, child, attorney, attorney's spouse or partner, anyone under the age of 18 or anyone who has a guardian of property or person appointed for them.
- You can obtain easy to complete forms and information booklets from your PPAO Patient Advocate, local Member of Provincial Parliament or from the Office of the Public Guardian and Trustee at 416-314-2800 in Toronto, toll-free at 1-800-366-0335 or at <http://www.attorneygeneral.jus.gov.on.ca/english/family/pgt/poa.pdf>. You may wish to consult a lawyer before finalizing the document as it grants a great deal of power to another person if you are found incapable.

Who can create a power of attorney for personal care?

- You are the only person who can create a power of attorney for yourself. Someone else cannot make a power of attorney on your behalf.

How can I make sure that my attorney makes decisions according to my wishes?

- You may give your attorney instructions about the kind of care you want – or don't want – in certain situations. You may give instructions about the decisions to be made and how they are to be made. Any instructions should be included in the power of attorney form.
- You may also tell your attorney your wishes at any time as long as you are capable of making that type of decision. Oral wishes are binding on your attorney, but it is a good idea to put all your wishes in a written document.

Who can I name as my attorney for personal care?

- Your attorney is the person you appoint to make decisions for you. The person you appoint must be at least 16 years of age and should be someone you trust with your personal decisions. You should discuss the power of attorney with the person to ensure that he or she understands the role and is willing to take on this responsibility.
- Your attorney does not have to be a lawyer. The word “attorney” has a different meaning in Ontario than it does in the USA.
- Certain people are *not* allowed to be your attorney, such as your doctor, nurse, social worker, homemaker or landlord, unless that person is your spouse, partner, or is related to you.
- You may name more than one person to work "jointly" (together) or “separately”. For example, you may appoint different people to make different types of decisions – one person may make health care decisions while someone else makes decisions about housing.
- You may also name a substitute attorney who will become the attorney if your first choice is unable or unwilling to act.
- If you wish to name the Public Guardian and Trustee as your attorney, you must have its prior written consent.

When does the power of attorney become effective?

- Generally, the power of attorney becomes effective when a doctor or evaluator determines that you are incapable of making a decision under the *Health Care Consent Act* regarding your health care, admission to a care facility or personal assistance services.
- For other care decisions, such as shelter, clothing or hygiene, a power of attorney for personal care becomes effective when your attorney believes that you are incapable of making the decision.
- You are incapable of making a personal care decision if you are unable to understand the information relevant to making the decision or are unable to appreciate the consequences of a decision or lack of decision.
- You may be capable of consenting to some things but not others. For example, you may be incapable of making a health care decision but capable of making a decision about housing.

How do I cancel my power of attorney for personal care?

- If you are capable of giving a power of attorney, you are capable of revoking one.
- A revocation must be in writing and witnessed by two people. The same people who are not allowed to be witnesses for the creation of the power of attorney are not allowed to sign this document.
- There is no special form for this statement which is known as a “revocation.”
- You should notify all people or institutions that were aware of the power of attorney.
- If you give a new power of attorney appointing another person as attorney, it will revoke the prior power of attorney.

Is a power of attorney for personal care the same as an “advance directive” or “living will”?

- The law in Ontario does not use the terms “advance directive” or “living will.” Instead, the law refers to “powers of attorney for personal care” and “wishes.”

Related InfoGuide:

- [Power of Attorney for Property](#)

Questions?

- If you have questions, contact your local Patient Advocate or call the central office of the Psychiatric Patient Advocate Office at 1-800-578-2343.