



### **POWER OF ATTORNEY FOR PROPERTY**

***Disclaimer: The following 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 “continuing power of attorney for property”?***

- A continuing power of attorney is a legal document in which you name a person to make decisions about your money and other assets on your behalf.
- A power of attorney for personal care is different from a continuing power of property in which you name a person to make decisions for you about your personal care. Please see the PPAO InfoGuide on this topic at <http://www.ppa.gov.on.ca/inf-per.html>.

#### ***Why should I have a continuing power of attorney for property?***

- A power of attorney allows you to *choose* the person you would like to make decisions for you. A continuing power of attorney allows the person you named as attorney to manage your finances if you are found incapable to do so. If you do not have a power of attorney and you are found incapable, the law says that the Office of the Public Guardian and Trustee will become your substitute-decision maker.
- You are not required to appoint a continuing power of attorney for property. It is a personal choice.

#### ***How do I create a continuing power of attorney for property?***

- You may make a power of attorney if you are at least 18 years old and if you are capable to do so. You are capable of giving a power of attorney if you understand the kind and value of your property, the obligations you have to your dependents and the role of the person named as the attorney.
- 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 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.

### ***Who can create a continuing power of attorney for property?***

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

### ***Who can I name as my attorney for property?***

- Your attorney is the person you appoint to make decisions for you. He or she can be any person who is at least 18 years old. You should discuss the power of attorney with this person to ensure that he or she understands the role and is willing to take on this responsibility. For example, you may want to consider his or her ability to handle money and make financial decisions, as well as whether he or she lives close to you.
- Your attorney does not need to be a lawyer. The word “attorney” has a different meaning in Ontario than it does in the USA.
- You may name more than one person to work “jointly” (together) or “separately.”
- 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?***

- Unless you specify otherwise, a continuing power of attorney becomes effective as soon as it is signed. If you were to become incapable of managing your property, the attorney would continue to make decisions on your behalf.
- You may choose to make the power of attorney effective at a different time. For instance, a particular date or after a particular circumstance (e.g., admission to the hospital). If you choose a different time, you should consider whether your instruction is practical and can be followed.

### ***What can my attorney do with my property?***

- Your attorney has the same power to deal with your property as you do. The attorney can pay bills, file your income taxes, sell property, etc. You may limit the powers of your attorney but any limitations should be included in the power of attorney document.

- An attorney cannot make a will on your behalf.

***Do I have to pay my attorney for property?***

- The attorney is entitled to payment at a rate set by law, unless you say otherwise. The rate is a percentage of money received and paid out of your accounts and a percentage of the remaining balance. You may state in the power of attorney that either you do not wish your attorney to be paid or set the amount of the payment.

***How do I change my power of attorney for property?***

- 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.
- You should notify all people or institutions that were aware of the power of attorney.

***If you give a new power of attorney naming another person to act as attorney, it will revoke the prior powers of attorney.***

***Questions?***

If you have questions contact your local Patient Advocate or Rights Adviser or call the Psychiatric Patient Advocate Office at 1-800-578-2343.