

POA-Power of Attorney for Personal Care

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SUPPORT AND EDUCATION COMMITTEE

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POA for Personal Care

- ❖ What is it?
 - Legal document under the Substitute Decisions Act 1992.
 - Also known as the acronym POAPC.
 - Covers your personal decisions such as housing and health care.
 - You are not required by law to have one, it is voluntary, no one can be forced to make one.

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POA for Personal Care

- ❖ Why do I need one?
 - So that your decisions about your care are followed and respected.
 - So that you are not forced to accept treatment or to be denied treatment that is against your wishes.
 - So that you are not forced into housing decisions that are against your wishes.

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- ❖ Why do I need one?
 - Many people believe their families will be able to step in if something happens and they cannot make decisions for themselves.
 - This isn't always true.
 - For personal care and health decisions such as where you live, what you eat or what medical care you will receive if you get sick or injured, you can name someone in a power of attorney for personal care.

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- ❖ Why do I need one?
 - No one can make you sign a power of attorney if you don't want to.
 - But, if you don't choose one, the government may have to appoint someone to make certain decisions for you.
 - It's better if you choose someone you feel you can really trust, who knows your wishes.

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- ❖ How do I start?
 - Look for your previous copy or get a copy from your lawyer if you filed it with a lawyer.
 - Print a copy that you can write on changes you are considering making.
 - Check if your previously named attorney or attorneys are still living and available.

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- ❖ How do I start?
 - Download a current form from the Ontario Ministry of the Attorney General
<http://www.attorneygeneral.jus.gov.on.ca/english/family/pgt/incapacity/poa.php>
 - Visit your local Office of the Public Guardian and Trustee
<http://www.attorneygeneral.jus.gov.on.ca/english/family/pgt/localions.php>

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- ❖ Tools:
 - The Office of the Public Guardian and Trustee has a Power of Attorney Kit that will help you appoint the person you want to make decisions for you when you are no longer able to do so for yourself.
 - The worksheet from this presentation.

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- ❖ The Substitute Decisions Act, 1992 allows you to appoint someone you trust, in advance, to make decisions for you if you become mentally incapable.
- ❖ You may use the POAPC form to give a person of your choice the authority to make decisions about your PERSONAL CARE should you become mentally incapable.

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- ❖ Decisions about personal care involve things such as where you live, what you eat, and the kind of medical treatment you receive.
- ❖ The person you appoint is called your “attorney for personal care”.
- ❖ You may appoint more than one attorney if you wish.

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- ❖ Your attorney for personal care.
- ❖ To appoint an attorney for personal care, you must be 16 years of age or more and have the mental ability to know whether your attorney truly cares about you and that he or she may make personal care decisions for you if necessary.

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- ❖ Remember, you are not required to appoint an attorney for personal care.
- ❖ This is **your** choice.
- ❖ Giving a power of attorney is a very serious matter.
- ❖ Your attorney may become responsible for profoundly important decisions about your wellbeing and quality of life.

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- ❖ If you decide to appoint an attorney for personal care, it is important that you do so of your own free will, without pressure from anyone else.
- ❖ Before you decide, you may want to talk with your family or close friends .
- ❖ Although you are not required to consult a lawyer in order to make a legally binding power of attorney, it is a good idea to do so.

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- ❖ Consulting with other expert advisors is also a good idea, providing they are impartial and concerned only with your best interests.
- ❖ By making this power of attorney, you revoke (cancel) any other power of attorney for personal care that you *have* made before.

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- ❖ This presentation includes guidelines designed to help you complete the power of attorney.
- ❖ They do not cover every option available in the Substitute Decisions Act, 1992.
- ❖ This is not legal advice.
- ❖ All decisions are up to you.

POA for Personal Care

- ❖ A POAPC form does NOT allow decisions to be made about your property or finances.
- ❖ If you want to appoint an attorney for your financial decisions you can make a separate document called a "Continuing Power of Attorney for Property."

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- ❖ You may give your attorney special instructions about the particular kind of care you want - or don't want - in certain situations.
- ❖ If you wish to give instructions, there is a space on the form where you can write them down.

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- ❖ Choosing your attorney.
- ❖ Decide who you want to appoint as your attorney for personal care – a family member or close friend, for example.
- ❖ The word "attorney" does not mean "lawyer."
- ❖ **The person you appoint should be someone you know very well and whom you trust completely with your personal decisions.**

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- ❖ Choosing your attorney.
- ❖ Talk to that person and make sure that he or she is willing to be your attorney.
- ❖ The person you appoint must be 16 years of age or more.

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- ❖ Certain people are **not allowed** to be your attorney.
- ❖ Do not appoint anyone who provides you with “health care or residential, social, training, or support services for compensation” unless that person is also your spouse, partner, or a relative.

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- ❖ For example, do not name any of the following people if they are paid (by you or someone else) to provide services to you *unless* that person is also related to you or is your spouse or partner:
 - your landlord;
 - any person who provides care for you in the place where you live;
 - your social worker, counsellor, teacher;
 - your doctor, nurse, therapist, or other health care provider;
 - your homemaker or attendant.

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- ❖ You can name more than one person to be your attorney for personal care.
- ❖ You are not required to do so.
- ❖ If there is more than one person you want involved in your personal care decisions, you may wish to consider appointing more than one attorney.

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- ❖ If you name *two* people to be your attorneys and do not say how they should make your decisions or who should make which types of decisions, the law says they must make all your decisions together.
- ❖ You are allowed to appoint different people for different categories of decision-making.

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- ❖ If you decide that your attorneys are going to make decisions together, it is a good idea to specify how disagreements should be resolved.
 - You might say that in a case of conflict, one attorney’s decision will override the other’s. Otherwise, your attorneys might have to go to Court and the judge will have to decide. The judge may decide on things you don’t want.
- ❖ You cannot appoint the Public Guardian and Trustee (PGT) as your attorney for personal care unless the PGT agrees in advance in writing to act as attorney for you.

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- ❖ Once you have decided who you want to appoint as your attorney(s), write your name and the attorney's name in the space provided in the form.
- ❖ If you have named more than one attorney or a substitute attorney, read Part 2 and Part 3 of the booklet on page 16 carefully.

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- ❖ Authority of Attorney(s)
This part of the form tells your attorney, and your caregivers, the categories of personal care that your attorney is allowed to decide about if you become mentally incapable.
This part gives your attorney(s) the authority to make decisions about **any** category of personal care for which you are mentally incapable.

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- ❖ This may include decisions about your health care, housing, safety, hygiene, clothing and nutrition.
- ❖ Your attorney will have first right to *give* or *refuse* consent to your medical treatment if you cannot do so, unless the court has appointed a guardian of the person.

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- ❖ It is important to understand that no matter what authority is given to your attorney in the document, he or she is only allowed to make decisions about those aspects of your personal care that you cannot make yourself.
- ❖ For example, if you become mentally incapable of making decisions about health care but can still make decisions about other personal care matters, such as housing or safety, you would still have the right to make your own decisions in these areas.

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- ❖ Although you may limit your attorney(s) to only specific categories of personal care (e.g. health care, shelter, nutrition, clothing, safety or hygiene) by writing restrictions in Part 5, think carefully before you do so.
- ❖ If you become incapable of making decisions in a particular area and your attorney does not have authority to decide for you, it may be necessary for the Court to appoint a guardian.

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- ❖ Instructions, conditions and restrictions.
- ❖ You may, if you wish, give your attorney(s) instructions about specific decisions that you want made in certain circumstances.
- ❖ This is different from saying what areas of authority your attorney has.
- ❖ Giving instructions means telling your attorney what decision to make in a particular situation.

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- ❖ You can be very specific in your instructions or give your attorney some general guidelines to follow when making decisions.
- ❖ The most common type of instruction is about health care. Remember, you can give instructions about *any* category of personal care in which your attorney has decision-making authority.

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- ❖ Your attorney for personal care can only make decisions about your personal care if you have become mentally incapable of making decisions yourself.
- ❖ If you choose, you can require that your attorney get confirmation of your incapacity before he or she acts and specify how you want this confirmation to be obtained.

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- ❖ If you wish to give your attorney instructions, here are some things you may want to consider doing:
 - Put your instructions in words your attorney(s) can understand.
 - If you give specific instructions, be very clear as to the type of situation in which the instruction must be followed.
 - Be realistic in your choices.

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- ❖ Talk to your attorney(s) about your instructions to make sure that he or she really understands what you are saying.
- ❖ It is helpful if you explain the values and beliefs which underlie your instructions.
 - If you decide to give instructions about health care, talk to your health care provider about your current health and the kind of medical treatment you might face in the future. Be aware that medical language can be very specific, so make sure that what you write actually expresses what you want to say.

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- ❖ Treatment Directions
- ❖ Under different circumstances, your wishes on a particular treatment may vary depending on what the situation is.
- ❖ The second part on treatment directions specifies the choices you have made.

Fill out the worksheet at home, put it away for a few days and then review it. You may have questions for your medical team before completing the treatment directions. Make any changes you want.

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- ❖ Treatment Decisions - Terminal Condition
- ❖ Do you want:
 - Life support?
 - Tube feeding?
 - CPR?
 - To treat intervening illness?

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- ❖ Treatment Decisions - Persistent Unconsciousness
- ❖ Do you want:
 - Life support?
 - Tube feeding?
 - CPR?
 - To treat intervening illness?

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- ❖ Treatment Decisions – Severe and Permanent Mental Impairment
- ❖ Do you want:
 - Life support?
 - Tube feeding?
 - CPR?
 - To treat intervening illness?

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- ❖ Some organizations and individuals offer very detailed forms in which you can record your choices about medical treatment.
 - ❖ If you have already completed such a form you may wish to attach it to this power of attorney.
- If you do attach such a document, it would be wise to say, in this part of the form, what the document is and the date it was signed. Initialing each page of the document you attach is also a good idea.

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- ❖ The law requires that your instructions must be followed by your attorney unless it is impossible for him or her to do so.
- ❖ For example, your attorney cannot be required to do something which is against the law.

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- ❖ If you do not provide any instructions, your attorney(s) must make decisions according to what he or she believes is in your best interest at the time.
 - ❖ You may also place conditions or restrictions on your attorney's authority.
- For example, you might want your attorney to consult with specific people (such as family members or your religious advisor) before decisions are made.

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- ❖ **Organ Donation:** If you want to authorize donation of your organs and tissue in the event of your death, you should get a Donor Card. Sign your Donor Card and keep it with your personal identification. Talk to your loved ones about your decision and give them your signed Donor Notification Card so they know your intentions as they will be asked to give final consent in the event of your death.
- Donor Cards and more information can be obtained at: <http://www.giftoflife.on.ca> or by contacting the Trillium Gift of Life Network at 1-800-263-2833.

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- ❖ Power of Attorney for Personal Care is one thing you can do to have your wishes followed.
- ❖ It is **your** choice who you appoint as attorney and what your treatment decisions are.
- ❖ Thank you for your attention.