

Power Of Attorney for Personal Care

Information Sheet, Page 1 of 6

In this information sheet we talk about:



- What is a Power of Attorney for Personal Care document
- A story to show why it is important to think about creating this document
- How to create one and where to get help
- Who you may name as your Attorney for Personal Care and how to change Attorneys
- When the Attorney role starts
- How Attorneys make decisions and their role
- Resources



What is a Power of Attorney?

A Power of Attorney is a legal document where you name someone to make decisions on your behalf. This person is called your Attorney (but often people say “POA”). This is one type of a Substitute Decision Maker (SDM).

There are different types of Power of Attorneys. One type is called a Power of Attorney for Personal Care (or POAPC). When you are not mentally capable (incapable) to make personal care decisions, the Attorney will make these decisions for you. They will make decisions about your health care, food, housing, clothing, hygiene, or safety.

You should make a POAPC if you want to name someone specific to make decisions for you. It can be a relative or a friend. If you don’t have this document, then your automatic SDM is determined by law.



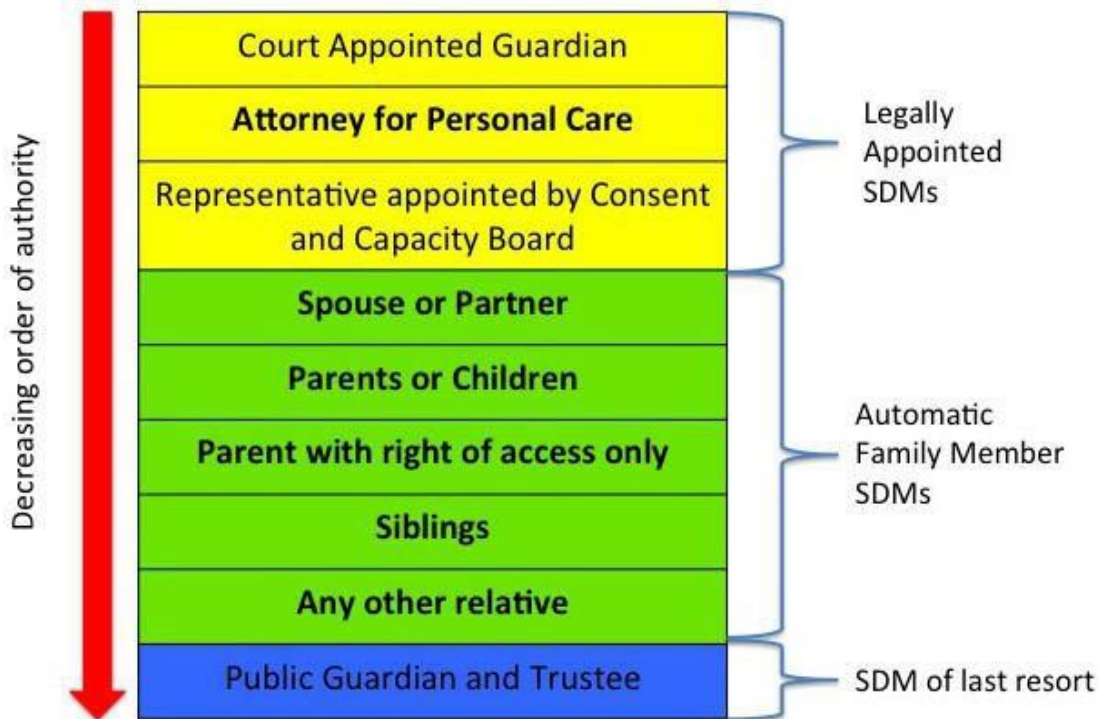
Remember: There is also another type of Power of Attorney document for making decisions about property and finances. This is called a Continuing Power of Attorney for Property (or CPAP).

What is a Substitute Decision Maker compared to a POAPC?

A Substitute Decision Maker is anyone who makes a health care decision for someone else. There are different ways to become an SDM. One way is by a legal document, such as a Power of Attorney for Personal Care. If there are no legal

Power Of Attorney for Personal Care Information Sheet, Page 2 of 6

documents, then there is a list of family members who are automatically appointed under the Health Care Consent Act. See the list below.



Ontario's Health Care Consent Act, 1996

A story



Manny is 35 years old and does not have a partner or children. Manny wants their sibling to make healthcare decisions if Manny becomes incapable to make a treatment decision. Manny thinks their sibling knows more about Manny's wishes, values and beliefs.

Normally, Manny's parents will make these decisions if Manny has no Power of Attorney for Personal Care (they would be his automatic SDMs by law).

So, Manny can name their sibling in a Power of Attorney for Personal Care document to make medical treatment decisions if Manny becomes very sick and is mentally incapable.

Power Of Attorney for Personal Care Information Sheet, Page 3 of 6

How do I make a Power of Attorney for Personal Care?

You can make a POAPC document if you are at least 16 years old. You must be mentally capable, which means you are:

- able to understand that the Attorney has a genuine concern for your welfare;
AND
able to be aware that the Attorney may need to make decisions for you.



The document must be signed and dated by you and two people (witnesses) who see you sign the document.

Who can help me make a POAPC?

If you have a complicated family situation, you should speak to a lawyer. A lawyer can help you make this specific to your wishes. Avoid using the free kits listed below when your mental capacity is in question. Instead speak to a lawyer who will determine if you have the capacity (are mentally capable) to sign the legal document. See last page for online resources.

Who may I name as Attorney?

Your Attorney can be anyone who is at least 16 years old, and mentally capable. This person must not be paid to provide you with health care, residential, social, training or support services.

You may name one or more people to act as your Attorney(s). One choice is to say they make decisions together (jointly) or separately (severally).

Can I change my choice of Attorney?

You can change your Attorney at any time by making a new POAPC document. Remember, you must write in the new document that you are revoking (replacing) the old document.

Tell your family and loved ones about your new Power of Attorney. Also talk to them about what is important to you.

Power Of Attorney for Personal Care Information Sheet, Page 4 of 6



When does my Attorney for Personal Care start to make decisions for me?

Your Attorney only makes decisions for you while you are incapable. In the POA document, you may tell people who will evaluate your capacity and decide that you are not capable to make decisions for personal care. If you become capable again, the Attorney steps back and lets you make decisions again.

Topics for Decision-Making

Your Attorney may make decisions for your health care, food, housing, clothing, hygiene, or safety. If there are certain things you do not want your Attorney to be able to decide, make sure you include details in the document.

How does the Attorney make decisions?

The Health Care Consent Act sets out how the Attorney makes decisions. The Attorney first considers your prior, capable wishes, and then about your best interests. Choose an Attorney who knows your wishes, values and beliefs and can think about what is best for you.

Your prior capable wishes, values and beliefs

The Attorney first considers any recorded or spoken wishes you have talked about. The Attorney must try to follow the wishes that are relevant to your medical situation.



Then, If you did not have any wishes, or your wishes cannot be followed, your Attorney will make decisions in your best interests.

Your best interests

An Attorney thinks about your wishes, values, and beliefs as much as possible and also considers what is best for you, including:

- Will the treatment or plan:
 - improve the current condition or well-being?
 - prevent worsening of the current condition or well-being?
 - slow down the process of getting worse?
- Without the treatment, will the condition get better, worse or stay the same?



Power Of Attorney for Personal Care Information Sheet, Page 5 of 6

- Do the benefits of the treatment outweigh the risks of harm? (These are risks and benefits as you would consider them.)
- Is there another option that might be as beneficial?

Be sure to speak to the person you select as your Attorney about your values and beliefs while you are still mentally capable.



Remember: the Attorney must think about which decisions may improve or keep your quality of life.

What is the Attorney's role?

The Attorney's role includes doing the following:



- Encourage you to take part in making decisions, as much as you are capable
- Support your personal contact with family members and friends, including visits
- Ask for the opinions of family members, friends who are in regular contact with you
- Ask for the input of caregivers
- Encourage your independence.

What do I do with my POAPC document?

Tell your family, doctors, and care providers about the document. Give them the contact information of your Attorney in case they need to contact them.



Give the signed document to your Attorney or keep it in a safe place where your Attorney can access it quickly. You may also give a second signed document to a trustworthy person, like a lawyer, to keep it in case the first one is lost. You should keep in easy reach a photocopy of the document and the contact information of your Attorney. You should review and update your document every few years as your circumstances change.

Power Of Attorney for Personal Care Information Sheet, Page 6 of 6

Online Resources

There are free Power of Attorney kits or tools provided by:

- Service Ontario at <https://www.ontario.ca/page/make-power-attorney>.
- Steps to Justice at <https://stepstojustice.ca/guided-pathways/will-and-powers-of-attorney-preparing-a-power-of-attorney/>

You might be able to get free legal advice from:

- ARCH Disability Law Centre – see <https://archdisabilitylaw.ca/services/> or call 416-482-8255 / 1-866-482-2724
- Advocacy Centre for the Elderly – see <https://www.ancelaw.ca/about/legal-information-services/> or call 416-598-2656 / 1-855-598-2656
- Legal Aid Ontario – see <https://www.legalaid.on.ca/our-services/> or call 416-979-1446 / 1-800-668-8258
- Pro Bono Ontario – see <https://www.probonoontario.org/hotline/> or call 1-855-255-7256
- Law Society Referral Service at 1-855-947-5255 / 416-947-5255 (within the GTA).

Other Information online:

- Community Legal Education Ontario (CLEO) “Guided Pathway to preparing a power of attorney”, available at <https://stepstojustice.ca/guided-pathways/wills-and-powers-of-attorney-preparing-a-power-of-attorney/>
- The Office of the Public Guardian and Trustee “Powers of Attorney: Questions and Answers”, 2007, available at https://www.publications.gov.on.ca/store/20170501121/Free_Download_Files/300629.pdf
- *Consent and Capacity Board General Information*, available at <http://www.ccboard.on.ca/>

Other information sheets available at MGH are:

- Consent
- Capacity
- Substitute Decision Making.