CAN SPECIFIC INSTRUCTIONS, CONDITIONS, AND RESTRICTIONS BE INCLUDED?

Yes. General guidelines for making decisions or detailed instructions about specific decisions that individuals want made can both be included.

CAN AN ATTORNEY FOR PERSONAL CARE MAKE PROPERTY AND FINANCIAL DECISIONS?

No. This requires completion of a separate legal document entitled Continuing Power of Attorney for Property.

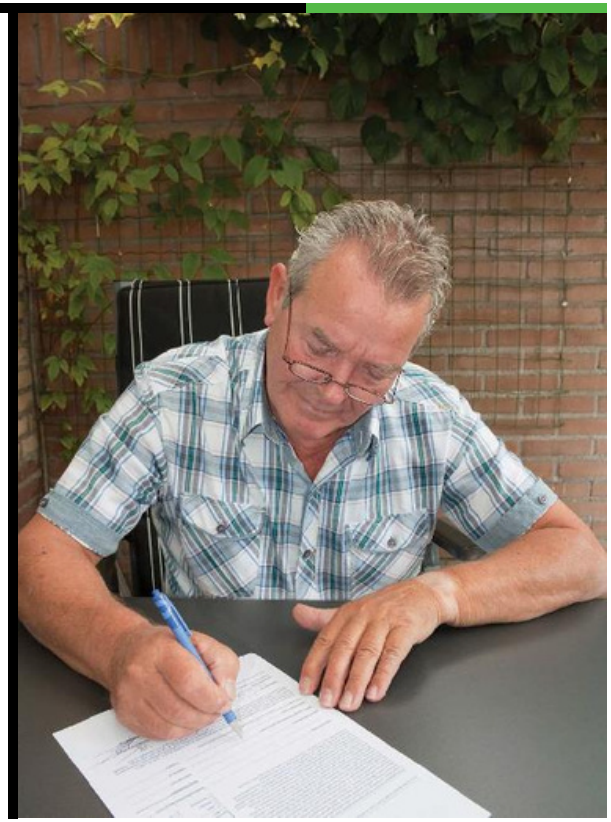
DOES COMPLETING A POWER OF ATTORNEY FOR PERSONAL CARE REQUIRE A LAWYER?

No, although this is often advisable as the document must meet certain legal standards to be valid (e.g., signed, dated, and witnessed by 2 persons). The document cannot be witnessed by: the individual's spouse, partner, or child; the person named as attorney or his/her spouse or partner; anyone under the age of 18; or the individual's Guardian of Property or Guardian of Person.

***This guide provides general information about the current law in this subject area. However, legal information is not the same as legal advice, where legal advice is the application of law to an individual's specific circumstances. Although we have tried to make sure that the information in this guide is accurate and useful, we recommend that you consult a lawyer if you want professional legal advice in this subject area that is appropriate to your particular situation.**

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Power of Attorney for Personal Care

A quick guide for healthcare consumers & healthcare providers

Power of Attorney for Personal Care

When 66-year old Mr. Fred arrived for rehabilitation following a broken hip, he brought with him a copy of a document naming his two sons as his Attorneys for Personal Care. In the document, he outlined some of his wishes around care he would want to receive in the future.

Your elderly Aunt Margaret has asked you to be her Attorney for Personal Care. Before accepting this role, you want to find out more about your responsibility.

When Mr. Choudry was admitted to the nursing home, he had no living family members. Although currently capable, he was recently diagnosed with Alzheimer's disease. Staff counselled Mr.Choudry to consider appointing someone to be his Attorney for Personal Care.

WHAT IS A POWER OF ATTORNEY FOR PERSONAL CARE? (POAPC)

A Power of Attorney for Personal Care is a legal document in which one person gives another person the authority to make personal care decisions on their behalf if they become mentally incapable.

WHAT IS A PERSONAL CARE DECISION?

Personal care decisions include those that involve health care, nutrition, shelter, clothing, hygiene, and safety.

WHY IS IT IMPORTANT TO APPOINT AN ATTORNEY FOR PERSONAL CARE

Completing a Power of Attorney for Personal Care allows individuals to appoint a person whom they trust to make personal decisions for them should they become mentally incapable. Ideally the Attorney for Personal Care should be knowledgeable about the person's wishes and values.

WHO CAN APPOINT AN ATTORNEY?

To appoint an Attorney for Personal Care, one must be 16 years of age and able to understand the nature of the decision. Individuals must be capable of knowing if the attorney cares for them and will make decisions in accordance with their wishes.

WHO CAN BE AN ATTORNEY?

An Attorney for Personal Care must be 16 years of age, capable of making personal care decisions, and willing to take on this responsibility. Persons who provide services to the individual completing the Power of Attorney for Personal Care (e.g., healthcare professionals, landlord, homemaker) cannot be Attorneys for Personal Care unless they are related to the individual.

IS IT POSSIBLE TO HAVE MORE THAN ONE ATTORNEY?

Yes. This can be done in several ways. One person can be named as Attorney for Personal Care and a second as a substitute. It is also possible to specify that each attorney has responsibilities only for decisions in certain areas (e.g., shelter, healthcare).

Alternatively, it is possible to give equal decision-making powers to more than one Attorney for Personal Care. The law will require them to make each decision together unless it is specified that they can act separately.

WHAT HAPPENS IF THE ATTORNEYS DISAGREE?

In the POAPC document, a mechanism for resolving conflicts can be described. If no mechanism for resolving conflicts is provided and the conflicts remain unresolvable, the healthcare practitioner or team may approach the Public Guardian and Trustee to make a decision.

WHEN DOES A POWER OF ATTORNEY FOR PERSONAL CARE TAKE EFFECT?

The Attorney for Personal Care only has the authority to make personal care decisions when individuals are not capable of making decisions for themselves.

DOES EVERYONE HAVE TO APPOINT AN ATTORNEY FOR PERSONAL CARE?

No. Appointing an Attorney for Personal Care is a voluntary act and individuals should not be coerced into completing one. If no one has been appointed to be an individual's substitute decision maker, a relative will be asked to make decisions. In accordance with Ontario legislation, authority to make decisions is granted in the following order: spouse or partner, parents or children, siblings, other relatives.