



POWER OF ATTORNEY FOR PERSONAL CARE

Choosing someone to make healthcare decisions for you on your behalf*

POWER OF ATTORNEY FOR PERSONAL CARE (POAPC)

66 year old Fred arrived for rehabilitation following a broken hip. His Power of Attorney names his 2 sons. He outlined his wishes about the care he wanted to receive in the future.

Your elderly Aunt Margaret has asked you to be her Attorney for Personal Care. Before agreeing you want to find out more about your responsibilities.

Nadeem was admitted to a nursing home. He had no living family members. Although capable, he was diagnosed with Alzheimer's disease. Staff suggested he consider appointing someone to be his Attorney for Personal Care.

WHAT IS A POAPC?

A Power of Attorney for Personal Care (POAPC) is a legal document in which one person gives another person (the "Attorney") the authority to make personal care decisions on their behalf if becoming mentally incapable to do so.

WHAT IS A PERSONAL CARE DECISION?

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

WHY IS IT IMPORTANT TO APPOINT AN ATTORNEY FOR PERSONAL CARE?

A Power of Attorney for Personal Care allows a person to appoint someone to make personal care decisions for him/her if becoming mentally incapable. Ideally, the Attorney for Personal Care knows about the person's wishes and values.

A person may appoint 1 or more person(s) to act jointly or separately as their attorneys.

WHO CAN APPOINT AN ATTORNEY?

To appoint an Attorney for Personal Care, persons must be at least 16 years of age and be capable to do so. To be capable, persons must be able to understand that the attorney has a concern for them and may make decisions for them.

WHO CAN BE AN ATTORNEY?

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

IS IT POSSIBLE TO HAVE MORE THAN ONE ATTORNEY?

One person can be named as Attorney and a second as a substitute attorney if necessary. A person may specify that each attorney is to make decisions in certain areas (e.g., shelter, healthcare).

If a person appoints more than 1 attorney, they must both agree to any decision unless the POA states otherwise.



St. Joseph's
HEALTH SYSTEM

Additional information may be found at on-line resources. POA kits are available on the PGandT website below.

ONLINE RESOURCES:

Community Legal Education Ontario Health and Disability Section
www.cleo.on.ca

Office of the Public Guardian and Trustee
www.attorneygeneral.jus.gov.on.ca/english/family/pgt/

Steps to Justice
stepstojustice.ca

Substitute Decisions Act
www.ontario.ca/laws/statute/92s30

To speak to St. Joseph's Health System's Bioethicist, please call 905-522-1155 ext. 33866. If it is after business hours or on weekends, please speak to your healthcare team to have the Bioethicist on-call paged.

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*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.

WHAT HAPPENS IF THE ATTORNEYS DISAGREE?

In the POAPC document, may include a process for resolving conflict. If the conflict regarding the decision to be made cannot be resolved, the Public Guardian and Trustee (a government department), will make the decision. The attorneys may wish to consult a lawyer(s).

DOES EVERYONE HAVE TO APPOINT AN ATTORNEY FOR PERSONAL CARE?

It is your choice, and no one should feel obliged to do this, though it is desirable to do so. If a Power of Attorney for Personal Care was not signed, health care decisions will usually be made by a relative. The legislation specifies the order in which people may be decision makers.

CAN SPECIFIC INSTRUCTIONS, CONDITIONS, AND RESTRICTIONS BE INCLUDED?

Yes. A person may include specific wishes regarding decisions. The person may include a statement of their values and beliefs to guide those making decisions.

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."

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

When a person is not capable of making their own decisions.

DOES THIS REQUIRE A LAWYER?

No. A person may wish to consult a lawyer as it is a legal document and it must meet certain legal requirements to be valid.