

What is a Power of Attorney?

You may become incapable of making your own decisions someday. For example, you could develop dementia or get in an accident and become unconscious.

A Power of Attorney (POA) gives someone else the ability to make decisions if you cannot make them for yourself. The person you choose to make decisions is called your “attorney”. Most people choose a close friend or family member as their attorney. You can have more than one attorney.

There are two kinds of POA in Ontario – a **POA for Property** and a **POA for Personal Care**.

- “**Property**” covers everything about finances and money including your bank accounts, bills, debts, car, house, investments, and even your pets.
- “**Personal Care**” covers your health care, medical treatment, diet, housing, hygiene, clothing, and decisions about long-term care.

What if I cannot make decisions about property and I don’t have a POA?

The Ontario Office of the Public Guardian and Trustee (PGT) will make decisions about your property. A family member can apply to take over from the PGT, but this can take a long time to get approved. A family member or friend can also make an application to Court asking to be appointed to manage your property.

What if I cannot make decisions about personal care and I don’t have a POA?

A family member will make decisions for you. If you do not have any family, the PGT will make decisions for you.

Should I have a POA?

Whether or not you have a POA is a personal choice. Without a POA, decisions about financial or medical matters might be made by someone from the government that you have never met, or someone in your family you would not have chosen for yourself. A POA lets you choose someone you trust to make these decisions. However, there can be risks involved.

What if I have questions?

Free legal information about POAs is on Steps to Justice (<https://stepstojustice.ca/legal-topic/wills-and-powers-of-attorney/>) or from the Ministry of the Attorney General (www.attorneygeneral.jus.gov.on.ca).

What is a WILL and should I have one? See the other side!

What is a Will?

A Will is a legal document that sets out what happens to your “estate” after you die. Your estate includes your money and everything you own, like your debts, house, car, belongings, and pets.

The person who manages your estate after you die is called your “Executor”. You can name more than one Executor in your Will. Your Executor must manage your estate by following instructions in your Will.

What happens if I die without a Will?

A family member may have to apply to Court to be appointed as your Executor. This can be frustrating, expensive, and take a long time.

Once the Court appoints an Executor, this is what will happen to your estate:

- If you are legally married, your spouse will get the first \$200,000 from your estate.
- If you do not have a spouse, your estate will be divided equally among your children.
- If you do not have children or a spouse, your estate goes to your closest relative.
- If you have no relatives at all, your estate would go to the Ontario government.

NOTE: a common-law spouse will not inherit anything unless there is a Will.

Should I have a Will?

Whether or not you have a Will is a personal choice, and no one can or should ever force you to make a Will. But, there are some good reasons to have one.

Having a Will is the only way to be sure a common-law spouse can inherit. You may have other family members or friends that you want to leave something to. Having a Will can help avoid the need for a family member to go to court to be appointed your Executor.

Having a Will is also important if you have young children. You can appoint a temporary guardian for your children in your Will. You can also choose a trustee who will manage their inheritance until they are adults.

What if I have questions?

Free legal information about Wills is on Steps to Justice (<https://stepstojustice.ca/legal-topic/wills-and-powers-of-attorney/>).

What is a POWER OF ATTORNEY and should I have one? See the other side!

www.communitylegalcentre.ca