

What is Power of Attorney (POA) for Personal Care?

A Power of Attorney for Personal Care is a legal document that appoints someone you trust to make decisions for you when you are no longer mentally able to do so for yourself.

Personal Care includes where you live, what you eat, and the kind of medical treatment you would wish to receive. You can give specific instructions to your attorney to ensure they know what you want. You can appoint more than one attorney.

How do I appoint a POA for Personal Care?

The Office of the Public Guardian and Trustee has produced a Power of Attorney Kit with all the necessary information to appoint a POA for both Personal Care and Property.

Copies of the **Power of Attorney Kit** can be obtained from:

1. **Download a copy at The Ministry of the Attorney General website:**

<http://www.attorneygeneral.jus.gov.on.ca/english/family/pgt/incapacity/poa.php>

2. **Pick one up at any Office of the Public Guardian and Trustee Head Office (Toronto)**

595 Bay Street
Suite 800
Toronto, Ontario M5G 2M6

3. **Call the Office of the Public Guardian and Trustee: 1-800-366-0335**

When does Power of Attorney for Personal Care come into effect?

Unlike a Power of Attorney for Property, a Power of Attorney for Personal Care *may only be used during a time when you are incapable* of making your own personal care decisions.

What about health care decisions?

Under the *Health Care Consent Act*, which is administered by the Ministry of Health, no one may be given medical treatment without consent, unless it is an emergency. The law says that people are presumed to be capable unless deemed otherwise. If a person is found to be mentally incapable, a health practitioner must turn to a substitute decision maker, i.e. a POA for Personal Care, to give consent on behalf of the patient.

When is a person considered “mentally incapable” of making decisions about medical treatment?

A person is incapable of making a decision if he or she cannot understand the relevant information or appreciate what could happen as a result of making, or not making, the decision.

Who decides whether a person is mentally incapable?

The health practitioner who is proposing the treatment makes this determination.

Can the POA for Personal Care have access to the patient's records?

As custodians of health care information we are governed by the *Personal Health Information Protection Act*, (PHIPA). We cannot release medical information to a third party, outside of the patient's circle of medical care, unless we have the patient's express consent. This information includes appointments, test results, diagnoses and treatments.

The POA for Personal Care may only have access to health information without express consent from the patient:

- only* when that patient has been deemed incapable of making a health care decision and
- only* the information needed to make that health care decision on behalf of the patient.

If the patient wishes us to give information to a third party, a spouse or family member, the patient must fill out and sign a *Consent to Disclose Personal Health Information Form* to advise exactly what information they wish to be shared with this person. For example, if a patient wishes a family member to be called with appointment times, that patient must fill out this form to grant permission to our office to do so.

Why should I advise your office of the name of my Power of Attorney for Personal Care?

It is recommended that patients advise their primary care provider about who has been appointed as their Power of Attorney for Personal Care. If something happens and you are rendered incapable of making a health care decision, your doctor or nurse practitioner will know whom to contact to ensure your health care wishes are followed.

We will record the information in your electronic health record for future reference and for use **only if and when** a healthcare professional has determined it necessary.

What if I wish someone to be called with my appointment information or test results? Does that have to be my Power of Attorney for Personal Care?

You can appoint anyone you like to be called with appointment information or test results, but you must do so in writing, even if it is your Power of Attorney.

We have a form called **Consent to Disclose Personal Health Information**. Once you have filled out and signed the form, we will put it into your medical chart. Please see the FAQ regarding this form.

Please note: Our office always presumes that the patient is capable. We will not release any information to the POA for Personal Care unless a relevant *Consent to Disclose Personal Health Information Form* is signed by the patient and on the patient's file or the patient's physician/nurse practitioner has given express instructions to share that information with the POA.

Where can I get more information?

Power of Attorney: www.attorneygeneral.jus.gov.on.ca/english/family/pgt/poa.asp

Health Care Consent Act: http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_96h02_e.htm

PHIPA: <http://www.ipc.on.ca/english/Home-Page/>