



THE LEGAL MEMO

POWER OF ATTORNEY FOR PERSONAL CARE

- Everyone needs a power of attorney (POA). There are two types of powers of attorney; one is the *power of attorney for property* and the other, dealt with in this separate article, is the *power of attorney for personal care*.
- Generally speaking a power of attorney is a legal document whereby one person grants to another person the power to make legal binding decisions/ contracts for them. Powers of attorney for personal care derive their authority from the *Ontario Powers of Attorney Act*. A power of attorney can be limited in time frame and/ or in scope. or it can be a “continuing” power of attorney with no limitations (and continues if you eventually become incapable).
- A power of Attorney for personal care is used to:
 - make health care decisions when you yourself are unable to do so for a medical reason or through mental incapacity.
- Who you should appoint:
 - most people appoint their spouse and one alternate. The alternate should be someone you trust and someone of an age that will in all likelihood probably survive you.
- You can appoint joint attorneys
- Consider appointing an alternate attorney in case the first appointed attorney cannot act.



- What happens if there is no POA and you become incapable:
 - then an Application will need to be made to Court or the Public Guardian and Trustee of Ontario to have someone appointed and that is both time consuming and expensive.
- What happens on death:
 - on death, the POA ceases to have validity and the terms of the will govern.

Remember that every situation is different and this article deals only with generalities. If you are uncertain as to your legal rights in a certain situation you should always consult your lawyer.