

Do you have a power of attorney?



A power of attorney gives someone else the authority to make important decisions on your behalf. Here's why you may need one, and how to choose the right person for the job.

IT ISN'T AN EASY THING TO THINK ABOUT, but what if you couldn't make decisions about your finances or health care – either temporarily or permanently – because of an illness or accident? You would want someone to step in. Creating a power of attorney lets you choose that person and grant him or her the appropriate authority.

When it comes to your finances, the solution is generally to establish an enduring or continuing power of attorney that appoints someone to manage some or all of your finances and property either as soon as you sign it or if you become mentally incapable of managing your own affairs. Your attorney does not become the owner of any of your assets. But, according to the limits you set, your attorney may be authorized to do everything from taking care of your banking and signing cheques to buying and selling real estate and buying consumer goods.

On the health care side, depending on your province or territory, you may be able to establish a power of attorney, personal or health directive, representation agreement or mandate that appoints someone to make non-financial decisions on your behalf –for example, helping to ensure that your end-of-life wishes with respect to medical interventions are met or choosing a long-term care facility for you.

Although both types are important components of a comprehensive financial plan, this article focuses on the power of attorney for finances.

Designed to meet your needs

Working with a lawyer, you can customize your power of attorney. It may be quite general or as specific as you need it to be. It may appoint a single person or more than one who act “jointly” (making decisions together) or “jointly and severally” (with the option of each making decisions on his/her own). The key is that it makes it very clear who will make decisions on your behalf, and holds that person responsible for his/her actions under the law.

The legal responsibilities of an attorney for finances may include complying with provincial or territorial legislation governing powers of attorney, day-to-day management of your assets, maintaining clear records, and following directions in the power of attorney document you create. Often, the attorney is entitled to compensation – this is something you should consider carefully ahead of time and spell out clearly in your power of attorney.

Choosing your attorney

How do you choose the right person to appoint? Because a power of attorney grants considerable authority, your attorney must be someone you trust. There are other characteristics to look for in an attorney for finances too, including:

- Minimum age required in your province or territory
- Demonstrated ability to manage finances and property responsibly
- Shared philosophy about money and investments
- Willingness to put your interests first
- Absence of financial or health issues that could interfere with his/her duties
- Availability in terms of time and geographic location
- Honesty, openness and reliability

Talk to the person or people you would like to appoint about the responsibilities of an attorney. Then ask if, given their understanding of what's expected, they are willing to take on this important role. Consider naming a substitute attorney in case, for any reason, your first choice cannot act for you either when the power of attorney takes effect or at any point after that.

Staying up to date

As your life changes, take the time to regularly review your power of attorney. If you've moved to a different province or territory, do you need to create a new document? Does your power of attorney still reflect your wishes? Is the attorney you appointed still mentally capable and available? Keep in mind that, while you are mentally capable, you can change or add attorneys or cancel your power of attorney altogether. When you make these kinds of changes, be sure to inform the financial institutions you work with. ■



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