

Ontario

Substitute Decisions Act, 1992
 Health Care Consent Act, 1996
 Long Term Care Homes Act, 2007



What legal documents can I use for Advance Care Planning and what can I include in them?

You can use a **Power of Attorney for Personal Care** to:

- appoint one or more Attorneys to make decisions about your care if you cannot.

If you live in a long-term care home, you can create a **Plan of Care** to:

- document your planned care, goals of care, and instructions to staff while you live in the care home. This plan can include any aspect of care: medical care, support services, nutrition, recreation, social engagement, and/or religious or spiritual practice.



What if I have completed documents outside of Ontario before moving here?

Your document is valid if it meets the requirements of either:

- A Power of Attorney for Personal Care in Ontario;
- The location where you made it.
- A lawyer can help determine whether documents completed outside of Ontario will be valid in Ontario.



When can I prepare a Power of Attorney for Personal Care?

- If you are 16 years of age or older.
- If you understand whether the proposed attorney has a genuine concern for your welfare
- If you understand that the proposed attorney may need to make decisions for you.



How do I prepare a Power of Attorney for Personal Care?

- You must write, sign and date it.
- The law does not state if another person can sign it on your behalf.
- Your signature needs two witnesses. The witnesses must be 18 years of age or older and cannot be:
 - » your spouse or partner,
 - » your attorney or their spouse or partner
 - » your child or a person who you treat as your child
 - » a person whose property is under Guardianship or who has a Guardian of the person
- A lawyer can assist in preparing a Power of Attorney for Personal Care.
- The two witnesses may be physically present with you, or may witness your signature by means of audio-visual communication technology (in this case, one of the witnesses must be a lawyer or a paralegal licensed by the Law Society of Ontario). There are specific rules for witnessing that must be followed precisely to ensure your Power of Attorney for Personal Care is valid.



When will my Power of Attorney for Personal Care be used?

- It will take effect when you lose the capacity to make decisions about your care.
- Capacity to make decisions about personal care is determined based on the criteria in the Substitute Decisions Act.



Who will make decisions about my care if I cannot?

If you have named an Attorney in your Power of Attorney for Personal Care, they may make decisions about your care.

If you have not named an Attorney, someone may be chosen as your **Substitute Decision Maker** to make decisions about your care.

Ontario



Who can I choose as my Attorney?

Your Attorney for Personal care must be:

- at least 16 years old
- available, willing and capable of making health care decisions.

They cannot be someone who provides health care, residential, social, training or support services to you for compensation, unless they are your spouse, partner or relative.



What decisions can my Attorney make?

Your Attorney can make decisions relating to your health care, nutrition, hygiene, living arrangements, shelter, safety, and any litigation or settle claim other than relating to your property of Guardianship. They can access personal information such as health records.

Their decisions must be guided by:

- your values and wishes
- your best interests if your values and wishes are not known.

If there is more than one Attorney, they may act jointly unless you state otherwise in the Power of Attorney for Personal Care.



What decisions is my Attorney not able to make?

- Anything prohibited by law
- Medical assistance in dying
- Delegate their role to another person



Who might be my Substitute Decision Maker?

Your Substitute Decision Maker is identified by your health care provider from a default list of close relatives. The first person who qualifies on the list may be chosen:

1. Court – appointed Guardian of the Person
2. Attorney for Personal Care
3. A representative appointed by the Ontario Consent and Capacity Board
4. Spouse or Partner
5. A child or parent, or a children's aid society or other person who can lawfully give or refuse consent in the place of the parent
6. Parent with right of access only
7. Siblings
8. Any other relatives
9. The Office of the Public Guardian and Trustee.

Unlike an Attorney, your Substitute Decision Maker can only make decisions about your health care treatments, which can include admitting you to a facility in order to receive the treatments.

Where do I go for more information about Advance Care Planning?

Ontario Consent and Capacity Board: www.ccboard.on.ca/scripts/english/index.asp

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

Speak Up Ontario: www.speakupontario.ca/

Speak Up Ontario – Interactive Advance Care Planning Workbook: www.makingmywishesknown.ca/

Speak Up Ontario – The Substitute Decision Maker Hierarchy:

www.speakupontario.ca/resource/the-substitute-decision-maker-hierarchy/

