

# Power of Attorney

A People's Law School Publication

# Contents

Introduction	1
Making a Power of Attorney	2
Enduring Power of Attorney	9
Ending a Power of Attorney	12
<b>Resources</b>	<b>14</b>
Where to Get Help	14
Glossary	17
<b>About</b>	<b>19</b>
About this Publication	19

# Introduction

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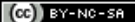
*Power of Attorney* tells you how a legal document called a **power of attorney** can be used to give someone the authority to take care of financial and legal matters for you. It explains the types of power of attorney, who can be an attorney, what powers and responsibilities the attorney has, and how to end a power of attorney.

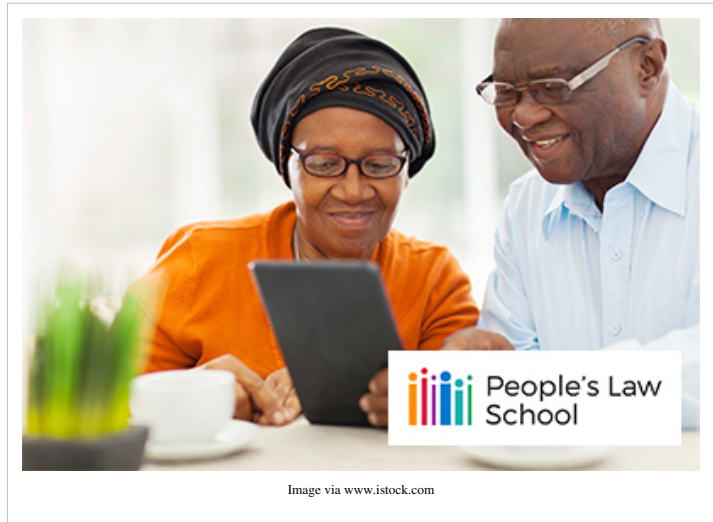
At People's Law School, we believe accurate, plain English information can help people take action to work out their legal problems. This publication explains in a general way the law that applies in British Columbia. **It is not intended as legal advice.** For help with a specific legal problem, contact a legal professional. Some sources of legal help are highlighted in the "Where to Get Help" section.

We have tried to use clear language throughout. See the "Glossary" section for definitions of key legal terms, which are also bolded in the text.

## People's Law School

People's Law School is a non-profit society in British Columbia, dedicated to making the law accessible to everyone. We provide free education and information to help people effectively deal with the legal problems of daily life.

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# Making a Power of Attorney

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This section was last reviewed for legal accuracy by Kevin Smith in March 2017.

## What is a power of attorney?

A **power of attorney** is a legal document. When you make a power of attorney, you give someone the legal power to take care of financial and legal matters for you. This might include paying bills, depositing or withdrawing money from your bank account, investing your money, or selling your home.

The person you give this power to is called the **attorney**. In this case, attorney does not mean lawyer.

You are called the **adult**.

A power of attorney does not give the attorney authority to make decisions about your health care or personal care. It covers financial and legal matters only.

A power of attorney is different from a will, which provides for the distribution of the things you own after your death. A power of attorney is a way to plan for the handling of your affairs during your lifetime.



## Why have a power of attorney?

A power of attorney is a simple and inexpensive way to plan ahead and choose who will help you with your financial and legal affairs.

There are several reasons you might make a power of attorney.

A power of attorney can be a good option if you are physically unable to look after your affairs due to travel or injury.



"I want to spend the summer visiting my grandchildren in France. I'll be gone for several months, and I'd like to enable my niece to pay my bills while I'm away. I learned I can do that by making a limited power of attorney. In it, I authorized my niece to access my bank account only to deposit my pension cheques and pay my bills, and only until I come home from my trip."  
- Helga, Victoria

A power of attorney set up so that someone can look after your affairs while you are traveling would be an example of a **limited power of attorney**. This is also called a **specific power of attorney**. Your attorney's powers are limited to a specific task or a specific period of time. For example, you might give someone power of attorney to sign the papers on the sale of your home while you're out of the country on vacation.

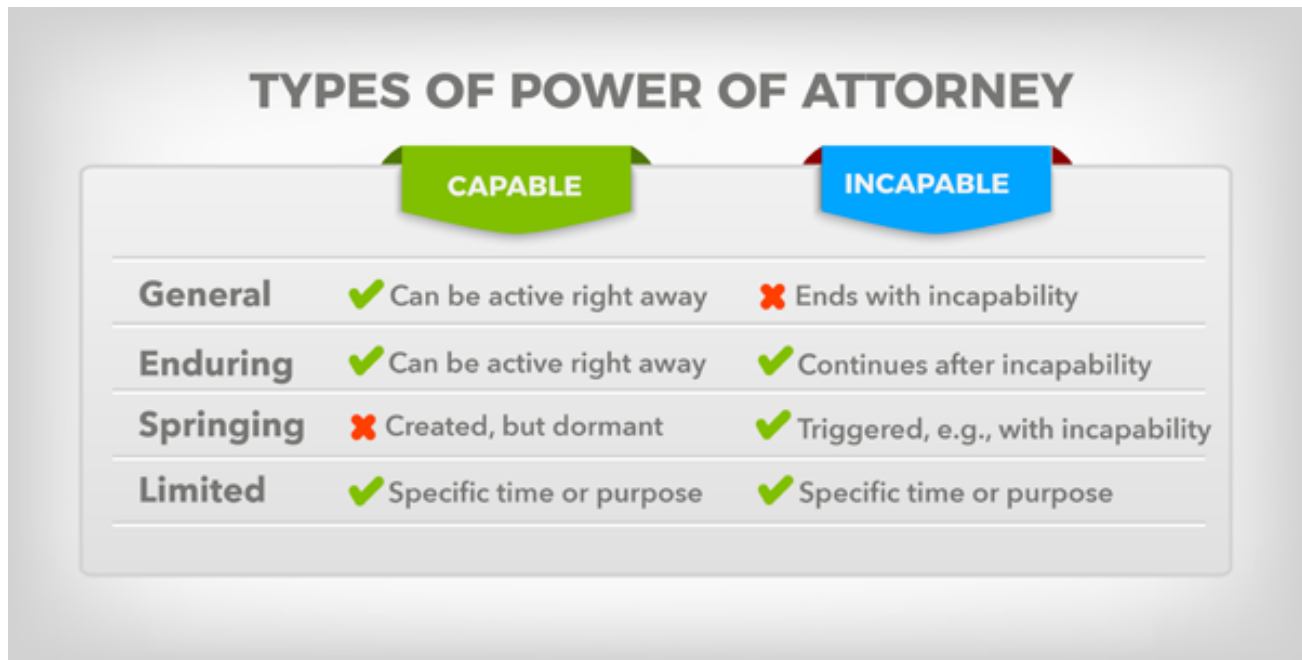


"My husband William had an accident at work. He is in hospital in a coma. We have a joint bank account, so I can pay the bills. But our car is in William's name and the insurance is due. William can't sign. I wish William had made an enduring power of attorney appointing me as attorney. That way I could renew the insurance."  
- Anita, Burnaby

Another reason you might make a power of attorney is to prepare for the possibility you become mentally incapable due to age, accident or illness. With an **enduring power of attorney**, you can appoint someone to act on your behalf for financial and legal affairs, and specify that the appointment continues in effect - or endures - if you become incapable of making decisions. (With a **general power of attorney**, the appointment ends when you become mentally incapable.)

For more on enduring powers of attorney, see the section "Enduring Power of Attorney".

A power of attorney can also be set up to come into effect only when something happens to trigger it. This is called a **springing power of attorney**. You can appoint someone to act on your behalf if the triggering event happens. The triggering event can be when you become mentally incapable. For example, the appointment can be worded to come into effect "when two physicians have determined that I am no longer capable of managing my affairs". Such a springing power of attorney is not active **until** you are incapable.



The types of power of attorney are not mutually exclusive. For example, an enduring power of attorney or a springing power of attorney can be limited to a specific purpose or time period.

## Are there other options to plan for the future?

Yes. In BC, an enduring power of attorney is the most common document used to give another person the authority to take care of your financial and legal affairs in the event you become mentally incapable.

But there are other options.

- In a **representation agreement**, you can name someone of your choice to make decisions for you when you can no longer manage on your own. The person you name as your “representative” can make personal care and health care decisions for you. With a “section 7 representation agreement”, the representative can also be authorized to handle “routine management” of financial affairs and most legal matters. For example, your representative can pay your bills, deposit your pension and other income, purchase food and other personal care services, and make investments for you. However, they can not handle financial matters beyond the routine, such as buy or sell your real estate property or take out a new loan in your name.
- In a **trust agreement**, you can put all your property and income in a trust. You can name someone of your choice to be the **trustee**, and spell out terms of how the property is to be managed. The trust continues if you become incapable, and can even survive death, ensuring your affairs continue to be managed in a way that is consistent with the terms in the trust.
- If your finances are not complicated, a **pension trusteeship** can be set up. Let’s say your only source of income is federal income security programs such as Old Age Security and the Canada Pension Plan, and your expenses are just rent, food and utilities. In that case, a capable family member or friend can sign up with the income security programs to receive your pension funds as trustee to pay the rent and bills.
- If your income is directly deposited into your bank account, you could set up a **joint bank account** with a trusted relation or friend. That person could help you with paying bills and making withdrawals. You need to be aware of the risks of a joint bank account. For example, any person named on the joint account is able to withdraw money from the account at any time. As well, note that in many cases, joint bank accounts include the “right of survivorship”. This means that if one of the account holders dies, the surviving account holder becomes the owner of the account.

If you become incapable of making decisions independently and you do not have an enduring power of attorney or one of these other planning tools in place, your family may have to go to court to get the legal right to manage your affairs.

## What about health care decisions?

A power of attorney deals **only** with your financial and legal affairs. It does not enable your attorney to make decisions about your personal care and health care. For example, a power of attorney would not allow your attorney to consent to health care on your behalf or to make decisions about where or with whom you will live.

Under BC law, if you want to have someone of your choice make decisions about your personal care and health care when you no longer can, you can make a **representation agreement**. In a representation agreement, you name whoever you want - such as a friend, relative, spouse, or adult child - to make personal and health care decisions for you, or assist you in making decisions, if you become incapable of making decisions on your own.

Another option to be aware of is an **advance directive**. In an advance directive, you can write instructions to your health care provider about what kind of health care treatment you want and don’t want, including life support or life-prolonging medical interventions. No one will be asked to make a decision for you when the advance directive applies.

## Legal capacity requirements

In considering the various planning options, a key factor to be aware of is that there are different **legal capacity** requirements. Legal capacity refers to a person's ability to make binding decisions or agreements.

Someone who doesn't have sufficient legal capacity to make an enduring power of attorney may still be able to make a representation agreement. A person can make a section 7 representation agreement even if they cannot manage their routine financial affairs or look after their daily needs. This makes a section 7 representation agreement a very useful "last resort" document when someone has not made any other planning documents and they are starting to lose their capacity.

A lawyer or notary public can guide you on which planning documents best fit your situation.

## You can still make decisions

Having a power of attorney does not remove your decision-making rights. Decision making is not given away; it is shared between you and the attorney whenever possible. Your attorney cannot override a decision made by you while you are capable. Your attorney has a legal duty, to the extent reasonable, to foster your independence and encourage your involvement in any decision-making that affects you.

## Choosing your attorney

When making a power of attorney, you can choose as your attorney someone who is:

- age 19 or older, and
- able to understand the responsibilities involved.

The law has two restrictions on who can be appointed as an attorney. You cannot appoint:

- A caregiver who is paid to provide you with personal or health care services.
- An employee at a facility where you live if the facility provides health or personal care services.

These restrictions do not apply if the person providing the care is your child, parent or spouse.

Most people choose their spouse, a family member or a friend as their attorney.

For a fee you can choose a trust company as your attorney. You can also name the **Public Guardian and Trustee** (a government official), but you need to check in with them first.



Your attorney will have significant power, so choose somebody you trust, and who is comfortable with financial matters. Take the time to talk with that person about what you want and would expect them to do.

You can appoint more than one person as your attorney. If you do, you must write in the document whether they will act together or individually. If you don't specify, the default is that they must act together.

### **What if something happens to your attorney?**

If you name only one attorney, it is very important to name an alternate who will take over if something happens to your attorney. However, you also need to describe very clearly the circumstances when an alternate may take over.

### **Can your attorney be someone who lives in another province?**

Yes. The person you name as your attorney does not have to live in British Columbia.

### **Do you have to pay your attorney?**

Your attorney is entitled to be paid back for any reasonable out-of-pocket expenses. If you want to pay your attorney a fee, you must write this in the power of attorney. The document must authorize the fee and set out the rate.

If a trust company or the Public Guardian and Trustee is your attorney, they will ask you to sign an agreement that says they can charge fees.

### **The attorney's powers and responsibilities**

The attorney is like your agent. He or she must act honestly, in good faith and in your best interests. Your attorney must keep careful records of any financial activities, and must keep your affairs separate from his or her own.

A general power of attorney gives your attorney the power to do anything financial or legal that you can't do for yourself. This could include dealing with bank accounts, getting information from Canada Revenue Agency in order to do your income tax, insuring or selling your car, or selling real estate.

### **What can you do to prevent misuse of your power of attorney?**

Before you make a power of attorney you may want to talk to a friend, family member, community advocate, or legal professional. You can also insist that your attorney get legal advice about his or her responsibilities.

Attorneys must keep accurate records, and attorneys must not take a personal benefit from the person's assets. Be sure you choose someone you trust. If possible, name more than one person. Talk to these people before you appoint them and make sure they understand what you expect from them, and when you expect them to act.

Even a power of attorney that takes effect as soon as it is signed does not have to be used until you need help. You may want to give the power of attorney document to someone else you trust, and tell him or her when to give it to the attorney.

You can put limits on the power you give your attorney. You can require the attorney to keep records of your finances and show you those records regularly. You should also review your bank statements.

### **Are there special requirements relating to real estate?**

If you want your attorney to have the power to sell your real estate property or deal with mortgages or easements, there are special requirements.

You must go to a lawyer or notary public to have the document prepared, and here are a few things you should know:

- Your power of attorney must use the exact name that is listed on your real estate property at the Land Title Office. For instance, if the name on the property deed is "Chung Hon Lee", you cannot use "C.H. Lee" in the power of attorney. If you are not sure of the exact name, do a search at the Land Title Office.



- A power of attorney for real estate gives your attorney the power to sell or transfer property to someone else, but not to him or herself. If you want to include that power, it has to be specifically written in. Discuss this with your lawyer or notary.
- You must sign the power of attorney in the presence of a lawyer or notary, and the lawyer or notary must also sign.
- You must register the power of attorney at the Land Title Office and pay the registration fee. Check at your local Land Title Office for the current fee. You can wait to register it, but don't wait to check with the office to make sure it meets the requirements.
- A power of attorney for real estate ends automatically in three years unless it is an **enduring power of attorney** or you say in the power of attorney "Section 56 of the *Land Title Act* does not apply".

## Timing of a power of attorney

### When does the power of attorney start?

A power of attorney can be written to come into effect as soon as it is signed. However, even a power of attorney that comes into effect on signing it does not have to be used immediately. Make sure your attorney knows when you want him or her to act.

### When does the power of attorney end?

A **limited power of attorney** ends when the job it describes is done, or on the date it specifies. For example, if you make a limited power of attorney to sell a piece of property, the power of attorney ends when the property is sold. A general power of attorney automatically ends in these circumstances:

- If you become incapable, **unless** you have an enduring power of attorney clause that makes a power of attorney continue to have effect if you are incapable.
- If your attorney dies, unless you name an alternate or more than one attorney.
- If you die.
- If the court appoints a **committee** to make decisions for you. A committee (pronounced caw-mi-tay or caw-mi-tee, with emphasis on the end of the word) is a person or body (such as the Public Guardian and Trustee) appointed by the court to look after your legal and financial affairs in the event that you become incapable of managing your affairs.

You can also cancel a power of attorney at any time.



### **If you made a power of attorney ten years ago, is it still good?**

Yes. However, you should check it over to make sure that it will do what you want and the information is accurate. You may decide to make a new one.

It's a good idea to review all your financial affairs (including your will) every two or three years. Addresses change, and so do people's lives. Stay up to date.

## **Questions about jurisdiction**

### **What about powers of attorney made in another province or country?**

Each province in Canada has its own laws and procedures for powers of attorney. This publication applies to residents of British Columbia who have finances and property in BC. For information about powers of attorney in another province or country, it's best to consult a legal professional. You may also want to check your local library or bookstores for a book called *Power of Attorney Kit* by Self Counsel Press <sup>[1]</sup>, or contact a public legal education and information provider in your province.

### **If you have property in another province or territory, will your BC power of attorney apply?**

Possibly. However, the safest approach is to check with a lawyer in that province or territory.

### **Is a power of attorney made in one province okay in another?**

It is likely the power of attorney made in one province will be recognized in another. However, it may not be effective in dealing with all real estate matters.

## **Preparing the power of attorney**




The BC Ministry of Justice has an enduring power of attorney form available online <sup>[2]</sup>. You do not have to use this form, but it gives you an idea of how to make a power of attorney.

Most people will go to a notary public or a lawyer to prepare their power of attorney. In fact, you must sign the power of attorney in the presence of a notary public or lawyer in order for the power of attorney to be recognized at the Land Title Office (see above).

In order for your attorney to have the power to sell your vehicle or renew its insurance, your power of attorney may need to be **notarized**. Notarizing means a notary public puts his or her seal on the document when you make it, to confirm that you and the witness signed it in front of him or her.

Particularly if you have a complicated or unusual situation, it's best to get some professional help. If you go to a lawyer or notary public, find out how much they will charge you. Phone around and compare prices. See the "Where to Get Help" section for help finding a legal professional.

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## References

[1] <http://www.self-counsel.com>

[2] <http://www2.gov.bc.ca/gov/content/health/managing-your-health/incapacity-planning>

# Enduring Power of Attorney

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This section was last reviewed for legal accuracy by Kevin Smith in March 2017.

## What is an enduring power of attorney?

An **enduring power of attorney** allows you to appoint someone to make financial and legal decisions for you in case you become mentally incapable because of age, accident or illness. An enduring power of attorney does not stop you from managing your own affairs as long as you are capable of making your own decisions.

The key difference between an enduring power of attorney and a general power of attorney has to do with when they are in effect. Only an enduring power of attorney can be in effect when you are mentally incapable.

## Why is it important to have an enduring power of attorney?

Suppose you become unable to make decisions because of an accident. If you have an enduring power of attorney, your attorney can make financial and legal decisions on your behalf. If not, the courts may have to decide. Nobody, not even a spouse, has legal authority over an adult's financial or legal affairs.



"My wife Susan is the owner of our second car. If she becomes mentally incapable, I learned I wouldn't have the legal authority to sell the car. So she made an enduring power of attorney appointing me as her attorney. That gives me the legal authority to sell the car if Susan becomes mentally incapable."  
- George, Nelson

By making an enduring power of attorney, you can appoint someone else to make decisions regarding your finances and property in case you become mentally incapable.

## What does an enduring power of attorney cover?

An enduring power of attorney covers financial and legal decisions. Your attorney cannot make health care or personal care decisions for you, such as consenting to surgery or dental work for you. To appoint someone to make health care or personal care decisions on your behalf, you can make a **representation agreement**.

An enduring power of attorney may be limited to dealing with specific matters, such as managing a specific bank account. It may also be limited to a specific time period.

## Making an enduring power of attorney

### Who can make an enduring power of attorney?

You may make an enduring power of attorney if you are 19 years of age or older, and are capable of making decisions. The law presumes you are capable unless it is shown that you are not. The way you communicate is not a factor in deciding whether you are capable.

The *Power of Attorney Act* <sup>[1]</sup> says you must understand the nature and consequences of all of these six factors, or you are considered incapable of making an enduring power of attorney:

- the property you have and its approximate value,
- the obligations you owe to your dependants,
- that your attorney will be able to do on your behalf anything in respect of property that you could do if capable, except make a will,
- that the value of your business and property may decline if your attorney fails to manage them prudently,
- that the attorney might misuse their authority, and
- that you may, if capable, revoke the enduring power of attorney.



"Suffering from Alzheimer's disease, my client Elizabeth is not able to recall what she owns - her bank accounts, vehicles, real estate, and so on. She would be considered incapable of making an enduring power of attorney. However, she may still be capable of making a 'section 7 representation agreement'."  
- Sylvia, Lawyer, Kelowna

### Who can you appoint as your attorney?

As with a general power of attorney, most people making an enduring power of attorney appoint a spouse, family member or friend as their attorney.

As with a general power of attorney, the law has two restrictions on who can be appointed as an attorney under an enduring power of attorney. You cannot appoint:

- A caregiver who is paid to provide you with personal or health care services.
- An employee at a facility where you live if the facility provides health or personal care services.

These restrictions do not apply if the person providing the care is your child, parent or spouse.

### **Should you see a notary public or lawyer?**

It is a good idea to go to a lawyer or notary public to make an enduring power of attorney. You can talk with a lawyer or notary public about what your attorney can do.

A notary public or lawyer can help you with rules about the gifts, loans and donations an attorney can make on your behalf.

### **What do you need to know about signing the documents?**

You must sign and date the enduring power of attorney and have the signing witnessed by two witnesses. The witnesses must also sign and date the power of attorney in front of you.

You need only one witness if the witness is a notary public or a lawyer.

The attorney must also sign the enduring power of attorney in front of two witnesses. You and your attorney do not have to sign at the same time.

A person cannot witness a signature if they are being appointed as the attorney, or if they are a spouse, child, or parent of the attorney. Nor can a person witness your signature if they are employed by the attorney, unless you are appointing a lawyer, notary public, the Public Guardian and Trustee, or a financial institution as your attorney.


### **When does an enduring power of attorney take effect?**

An enduring power of attorney usually takes effect as soon as you and your attorney sign the documents. You can continue to manage your financial and legal affairs for as long as you are capable. But your attorney can help you with any complicated matters. To the extent reasonable, your attorney must foster your independence and encourage your involvement in any decision-making that affects you.

An enduring power of attorney can also take effect at a specified time you name in the document, such as when you become incapacitated. This is known as a **springing power of attorney**.

### **Is an enduring power of attorney made in one province okay in another?**

The *Power of Attorney Act* <sup>[1]</sup> and the Regulation <sup>[2]</sup> under the Act have some provisions relating to enduring powers of attorney made outside British Columbia. You should ask a lawyer or notary how those provisions affect the enduring power of attorney in your situation.

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### **References**

[1] <http://canlii.ca/t/8491>

[2] <http://canlii.ca/t/8p5w>


# Ending a Power of Attorney

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This section was last reviewed for legal accuracy by Kevin Smith in March 2017.

## Can you cancel your power of attorney?

You can revoke your power of attorney at any time as long as you are capable. You must put your decision in writing. The written decision is called a Notice of Revocation.

 <b>Tip</b>	<p>I, _____ [insert your name], revoke the power of attorney that I made on _____ [insert date power of attorney was signed] that appointed the following people _____ [insert name of your attorney(s)].</p> <p>Date: _____</p> <p>Signature: _____</p>
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You must give a signed and dated copy of the written Notice of Revocation to each attorney appointed in your power of attorney.

The revocation takes effect when it is given to everyone required. You can also list a specific future date in the Notice of Revocation when it will take effect.

Send a copy of the revocation notice to any organizations, companies or individuals your attorney deals with.

You can also cancel a power of attorney by saying so in a new power of attorney replacing it (see below for more on doing a new power of attorney).

Nidus Personal Planning Resource Centre and Registry <sup>[1]</sup> provides detailed procedures for revoking a power of attorney, including a sample Notice of Revocation.

## Can your attorney refuse to act or decide to quit?

Yes. If your attorney wants to resign, they must put their decision in writing. The written decision is called a Notice of Resignation. They must give the written Notice of Resignation to you as the person who appointed them and to any other attorneys named in the power of attorney.

If the adult is incapable of making decisions at the time an attorney is resigning, the attorney must also give the Notice of Resignation to a spouse, near relative, or close friend of the adult. Nidus <sup>[2]</sup> provides detailed procedures for resigning as an attorney, including a sample Notice of Resignation.

If your attorney resigns, you need to notify any organizations, companies or individuals that the attorney deals with, and then you will need to make a new power of attorney.

## Does a new power of attorney cancel the old one?


No. More than one power of attorney can be in effect at the same time. If you want to be sure you have only one power of attorney in effect, when you make a new power of attorney, write at the beginning:

*"I revoke any and all powers of attorney I have previously made."*

## What can you do if someone misuses your power of attorney?

Misusing a power of attorney is a crime. If your attorney abuses his or her power, cancel the power of attorney immediately and then seek legal advice. You may be able to sue your attorney to get back any money or property that has been taken.

If you are incapable and cannot cancel your power of attorney, you or someone else can call the Public Guardian and Trustee<sup>[3]</sup> and report the situation. They will investigate.

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## References

[1] <http://www.nidus.ca>

[2] <http://www.nidus.ca/>

[3] <http://www.trustee.bc.ca>

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# Resources

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## Where to Get Help

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### Access Pro Bono

Volunteer lawyers provide free legal advice to qualifying persons who cannot obtain legal aid or afford a lawyer.

Lower Mainland: 604-878-7400

Toll-free: 1-877-762-6664

[www.accessprobono.ca](http://www.accessprobono.ca) <sup>[1]</sup>

### Alzheimer Society of BC

Provides information and support to families, individuals, and caregivers to alleviate the personal and social consequences of Alzheimer's disease and other dementias.

[www.alzheimerbc.org](http://www.alzheimerbc.org) <sup>[2]</sup>

### Clicklaw

A website offering one-stop access to legal information, education and help for British Columbians from trusted organizations.

[www.clicklaw.bc.ca](http://www.clicklaw.bc.ca) <sup>[3]</sup>

### Lawyer Referral Service

A service from the Canadian Bar Association, BC Branch that offers referrals to lawyers who can provide up to a half-hour consultation for \$25.

Lower Mainland: 604-687-3221

Toll-free: 1-800-663-1919

[lawyerreferral@cbabc.org](mailto:lawyerreferral@cbabc.org) <sup>[4]</sup>

[www.cbabc.org](http://www.cbabc.org) <sup>[5]</sup>



### **Law Students' Legal Advice Program Clinics**

Law students from the University of British Columbia offer free legal help with some legal matters.

604-822-5791

[www.lslap.bc.ca](http://www.lslap.bc.ca) <sup>[6]</sup>

### **Legal Services Society Call Centre**

Can answer legal questions and direct people to other information or services that can help them solve their legal problems. They do not give legal advice.

Lower Mainland: 604-408-2172

Toll-free: 1-866-577-2525

### **Ministry of Justice**

Provides information about planning for incapacity, including an enduring power of attorney form.

[www.gov.bc.ca](http://www.gov.bc.ca) <sup>[7]</sup>

### **MyLawBC**

From Legal Services Society, the agency that provides legal aid in British Columbia, MyLawBC is an online resource that provides information about personal planning documents such as powers of attorney and representation agreements. The site features “guided pathways” in which you are asked a series of questions, and based on your answers, you are provided with an action plan of what planning documents you need, and how to get them.

[mylawbc.com/paths/wills](http://mylawbc.com/paths/wills) <sup>[8]</sup>

### **Nidus Personal Planning Resource Centre and Registry**

Provides detailed information about enduring powers of attorney, representation agreements, and advance directives.

[info@nidus.ca](mailto:info@nidus.ca)

[www.nidus.ca](http://www.nidus.ca) <sup>[9]</sup>

### **Public Guardian and Trustee of BC**

This public body can investigate the misuse of a power of attorney where the adult has become mentally incapable. It also provides financial management and legal decision-making for vulnerable adults.

700 - 808 West Hastings Street

Vancouver, BC V6C 3L3

604-660-4444

[www.trustee.bc.ca](http://www.trustee.bc.ca) <sup>[10]</sup>

## Self Counsel Press

Self Counsel Press publishes do-it-yourself guides on legal topics for BC, including a *Power of Attorney Kit*.

[www.self-counsel.com](http://www.self-counsel.com) <sup>[11]</sup>


## Society of Notaries Public of BC

A notary public can help with making a power of attorney. The Society of Notaries Public of BC offers a list of notaries in the province.

Lower Mainland: 604-681-4516

Toll-free: 1-800-663-0343

[www.notaries.bc.ca](http://www.notaries.bc.ca) <sup>[12]</sup>

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## References

- [1] <http://www.accessprobono.ca>
- [2] <http://www.alzheimerbc.org>
- [3] <http://www.clicklaw.bc.ca>
- [4] <mailto:lawyerreferral@cbabc.org>
- [5] <https://www.cbabc.org/For-the-Public/Lawyer-Referral-Service>
- [6] <http://www.lslap.bc.ca>
- [7] <http://www2.gov.bc.ca/gov/content/health/managing-your-health/incapacity-planning>
- [8] <http://mylawbc.com/paths/wills/>
- [9] <http://www.nidus.ca>
- [10] <http://www.trustee.bc.ca>
- [11] <http://www.self-counsel.com>
- [12] <http://www.notaries.bc.ca>

# Glossary

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**This section was last reviewed for legal accuracy by Kevin Smith in March 2017.**

## Advance directive

A document specifying instructions to health care providers about what kind of health care treatment a person does or does not want, including life support or life-prolonging medical interventions.

## Attorney

A person legally appointed or empowered to act on behalf of another. An attorney is a type of agent known as a **fiduciary**.

## Capacity

A person's ability to make their own choices and decisions.

## Committee

A person or body (such as the Public Guardian and Trustee) appointed by the court to make legal, financial and medical decisions for someone who is mentally incapable and cannot manage their own affairs.

## Enduring power of attorney

A legal document that enables an adult to appoint another person to make financial and legal decisions for them, and specifies that the appointment continues - or "endures" - in the event the adult becomes mentally incapable.

## Fiduciary

A legal relationship where one person has an obligation to act for another's benefit.

## General power of attorney

A power of attorney that gives general powers to the attorney for an unlimited period of time while the adult is mentally capable of managing their own affairs. It ends if the adult becomes mentally incapable.

## Joint bank account

A bank account in which two or more people have ownership rights over the same account.

## Legal capacity

A person's ability to enter into legal relations with others or to make binding decisions or agreements. Generally, the ability to appreciate the nature and consequences of a proposed relation or decision.

## Limited power of attorney

A power of attorney that limits the attorney's powers to a specific task or a specific period of time - for example, to sign papers completing the sale of a specific property.

## Notarized

When a notary public puts his or her seal on a document to confirm that a person signed the document in front of the notary.

## Notary public

A legal professional authorized to provide many non-contentious legal services to the public, including preparing wills and powers of attorney and notarizing signatures on documents.

## Notice of Resignation

A written statement by an attorney to resign from their appointment under a power of attorney.

Notice of Revocation

A written statement by an adult given to their attorney revoking the authority granted to the attorney under a power of attorney.

Power of attorney

A legal document that enables an adult to give another person (or more than one person) the authority to make financial and legal decisions for them.

Public Guardian and Trustee


A public body established by law to protect the interests of British Columbians who lack legal capacity to protect their own interests.

Representation agreement

A legal document that enables an adult to authorize someone to make decisions for them when they can no longer manage on their own. The “representative” can make decisions relating to health care and personal care matters. With a “section 7 representation agreement”, the representative can also be authorized to handle “routine management” of financial affairs and most legal matters.

Springing power of attorney

A power of attorney that only becomes effective when an event happens, such as a finding that the adult is mentally incapable.

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# About

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## About this Publication

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*Power of Attorney* from People's Law School tells you how a power of attorney can be used to give someone the legal power to take care of financial and legal matters for you. It explains the types of power of attorney, who can be an attorney, what powers and responsibilities the attorney has, and how to end a power of attorney.


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### About People's Law School

People's Law School is a non-profit society in British Columbia, dedicated to making the law accessible to everyone. We provide free education and information to help people effectively deal with the legal problems of daily life.



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## References

- [1] <mailto:info@peopleslawschool.ca>
- [2] <http://www.peopleslawschool.ca>