

POWERS OF ATTORNEY: WHAT CONSUMERS NEED TO KNOW



WHAT IS A POA?

A POA is a legal document that gives someone else (one or more persons) the legal right to act on your behalf. A POA can be for property and finances, or for health purposes (this article only discusses POAs for property and finances).

WHAT AN ATTORNEY DOES

The person to whom you give your POA (your Attorney) has a duty to act in your best interest. You can set out in the POA document the types of transactions that you want your Attorney to do for you or insert restrictions as to what they should not do. Your Attorney is required to keep detailed records of the transactions they complete on your behalf.

Quick tip: It's important to understand that the term "Attorney" does not mean "lawyer"; most people appoint a trusted person or persons such as family members or friends to act as their Attorney(s) under a POA.



Learn more about Powers of Attorney and how to avoid financial abuse through the Canadian Bankers Association's free seminar program, Your Money Seniors.
yourmoney.cba.ca/seniors

CHOOSING YOUR ATTORNEY

- Your Attorney must manage your property and finances for your benefit and according to your wishes. Therefore it is very important that you choose an Attorney that you trust.
- Once you have chosen an Attorney, it is helpful to ensure that they are aware of your wishes and priorities for your finances.
- Each province has rules about POAs. You must make sure you have followed the rules or banks (and others) will not be able to follow the Attorney's instructions.

SETTING UP A POA

- While there are online and other generally-available forms and templates for a POA – and some banks provide forms for their clients' convenience – you should consult a legal professional to draft your POA.
- It is not the policy of any bank to insist on clients using the bank's own form of POA. Bank forms may deal only with bank transactions and possibly only transactions with that bank. Unless you have consulted a legal professional, there is the potential that using a bank form might invalidate or conflict with the terms of earlier POAs and lead to unintended consequences.

HOW TO PROTECT AGAINST FINANCIAL ABUSE

- Financial abuse can occur when your Attorney uses their power to benefit themselves and not you.
- Chose your attorney carefully. When planning for your possible inability to manage your finances yourself, allowing a trusted person (or persons) to assist with your financial affairs can be helpful, but you must select your trusted person wisely.
- Remember that you can revoke an existing POA and appoint a new Attorney at any time. You may want to do this if you have concerns about the way your Attorney is acting for you. If you revoke your POA, you need to tell your bank so they can update your records to reflect your choice. If you move to a different province or territory or outside of Canada, your existing POA may not be recognized in that new location.

