

POWER OF ATTORNEY FOR PERSONAL CARE

The *Substitute Decisions Act*, 1992, S.O. 1992, c.30 allows you to appoint a person or persons to make personal care decisions for you if you become incapacitated. The Power of Attorney for Personal Care can cover all types of personal care, including decisions about health care, nutrition, clothing, housing, hygiene, safety, and consent to medical treatment. Unlike a Power of Attorney for Property, which becomes effective immediately upon signing, a Power of Attorney for Personal Care cannot be used until you become mentally incapable of making personal care decisions generally or making specific decisions.

You will be mentally incapable if you are unable to understand information relevant to making a decision concerning your health care, nutrition, shelter, clothing, hygiene or safety, or are unable to appreciate what is likely to happen if a particular decision is or is not made.

You should make sure you understand the authority that you are giving to the attorney, and you must trust your attorney to act responsibly and to follow your instructions. You might want to obtain legal advice and advice from your family doctor. You must make sure you are voluntarily giving the Power of Attorney for Personal Care.

You may choose to name a substitute attorney who will act if the primary attorney is unwilling or unable to act, and you may make joint and several appointments as well.

The Power of Attorney for Personal Care tells caregivers and your attorney the categories of personal care that your attorney is allowed to make decisions about in the event of your incapacity. **However, you attorney is only authorized to make decisions about those aspects of your personal care that you cannot make yourself. Thus, if you can still make decisions about certain things, your attorney cannot make those decisions.**

Your Power of Attorney for Personal Care may contain instructions for, and restrictions on, your attorney's authority in any category of personal care. Your attorney must carry out your instructions unless those instructions are illegal or impossible. Your attorney must have regard for any wishes you might have expressed, for example, by a living will previously executed. No special procedure is required to sue the Power of Attorney for Personal Care if your attorney has reason to believe you are incapable.

If you have not made a Power of Attorney for Personal Care and you become incapacitated, the *Substitute Decisions Act*, 1992 provides a process by which your spouse or partner or other close person may apply to become a guardian of your person. Going through the process involves going to Court and is complicated, expensive and time consuming.