

Power of Attorney Use and Abuse

a guide for seniors and their attorneys

What is a power of attorney?

A power of attorney is a legal document that gives someone (the “attorney”) the power to make financial and legal decisions on behalf of another person according to their instructions.

It is an inexpensive way to protect your assets!

Why use it?

advanced planning: appoint someone to make decisions for you when you want them to, or in case you lose your capacity to make decisions.

peace of mind: knowing someone you trust will manage your affairs if you are sick, away, or incapacitated.

convenience: you can appoint an attorney so you don't have to deal with managing finances. You choose what your attorney can or can't do!

Be careful!

An attorney can ***abuse their power***. They must be someone you trust; ***anyone can take advantage of you*** - even your own children.

Power of attorney abuse can take on any form, such as ***improper spending, stealing money***, or ***taking your CPP or OAS benefits***.

You can change or revoke a power of attorney at any time! You share decision-making authority, but you are still in charge!

Lee's Story

Lee would like to sell some property he owns for some extra money, but travels too much to meet with lawyers and realtors. He wants his son to help in his place, so he finds a power of attorney form online and fills it out himself.

Lee believes the power of attorney gives his son the power to sell property on his behalf, but he is wrong: in BC, a power of attorney can only be used to buy and sell property if it is prepared by a lawyer or notary.

Lee finds out about this one day, after his son called to tell him the sale of the property failed at the last minute because of the flawed power of attorney. Lee is upset, and regrets not meeting with a lawyer or notary to make sure he used the right documents.

To care for yourself, look out for yourself.

Power of attorney abuse is a crime, and can be very difficult to talk about. Do not be ashamed or afraid to talk with someone you trust about your concerns. For more information, talk to a lawyer or notary, or contact the following resources:

UBC Law Students Legal
Advice Program
604 822 5791
www.lslap.bc.ca

BC Centre for Elder Advocacy and
Support
604 437 1940 (sun-sat: 8am-8pm)
www.bcceas.ca

Nidus Personal Planning Resource
Centre and Registry
1 877 267 5552
www.nidus.ca

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Yong's Story

Yong was chosen by her father to be his attorney. Yong's father is elderly, and is often too tired, sick, or preoccupied to manage his day-to-day finances.

Yong receives and deposits her father's pension and Old Age Security cheques, and uses the money to pay his bills and other expenses.

One day, Yong hears about a high-risk investment opportunity. She is excited: she can make a lot of money investing her father's money and keeping the profits for herself.

She invests the money and, after a few weeks, discovers that it was a scam! Her father finds out about the loss and is so upset he calls the police. The police then charge Yong for abusing her father's power of attorney.

Being an attorney is not a privilege, ***it is a responsibility!***

Who can be an attorney?

Any one or more persons who are:

- o adults over the age of 19
- o mentally capable of acting for the senior
- o able to understand and fulfil their duties
- o able and willing to act as per the senior's wishes, instructions, values, and beliefs

Duties of an attorney

- o act ***honestly*** and in ***good faith***
- o act in the ***senior's best interests***
- o exercise ***care, diligence, and skill*** when acting for the senior
- o keep records of ***everything!***

Facts to know!

- o ***decision-making authority is not given away***, it is shared between attorney and senior
- o the attorney ***cannot override*** a decision made by the senior
- o powers of attorney ***do not apply to health decisions***, only financial and legal decisions
- o ***multiple attorneys may be appointed*** to make sure the senior's wishes are respected
- o a power of attorney is ***not*** a way for an attorney to get their inheritance early!

Power of attorney abuse is a crime!

If you are appointed as an attorney by a loved one, make sure you are aware of your duties and responsibilities. Protect the dignity and honour of your loved one by following these rules. If you neglect your responsibilities, you may be punished for your actions!

a project in cooperation with:



Canadian Centre for Elder Law
1822 East Mall, Vancouver, BC
(604) 822 0633



Volunteer Richmond Information Services
190 - 7000 Minoru Blvd, Richmond, BC
(604) 279 7020

This fact sheet is for informational purposes only. It is not intended to be used as legal advice.

授權書的使用和濫用

長者及受託人指南

受託人: "attorney"

授權書: "power of attorney"

甚麼是授權書？

授權書是一份法律文件，給予某人（「受託人」）權力，根據另一方的指示，代表其做出金融與法律方面的決定。它是花費不多的保護你的資產的方式！

為什麼需要授權書？

提前計劃：指定某人在你有需要或失去決定能力時代替你作出決定。

安心無憂：知道你信任的受託人，可以在你生病、遠行或不能自理時，管理你的事務。

方便：指定受託人處理事務，免去管理財務的壓力。

請注意：

受託人可能會濫用你的授權。受託人必須是你信任的人，任何人，包括你的子女都可能佔你的便宜。

濫用授權可以是**任何形式**，譬如：不當的開支、竊取錢財、佔有你的退休金或養老金等。

**你可以隨時更改或撤銷授權！
你雖然與受託人共享做決定的權力，
但最終的決定權仍是你自己！**

李先生的故事

李先生想出售他所擁有的一些物業以獲得額外收入，但是疲於多次輾轉律師和房產經紀人之間。他想讓兒子幫忙運作，就在網上找到一份授權書並自行填好。

李先生相信此份授權書賦予他的兒子代表他出售物業的權力，但是他錯了：在卑詩省，只有律師或公證人準備的授權書才能夠用於買賣物業。

可是李先生不了解這一點，直到某天他的兒子告訴他，由於錯誤的授權書，物業出售在最後一刻無法完成。李先生很沮喪，並後悔沒有與律師或公證人會面以確認他使用了正確的文件。

關心自己，保護自己

授權書濫用是犯罪行為，而且可能是個難以啟齒的話題。不要羞於或害怕與你所信任的人談論你的顧慮。與律師或公證人交流，或聯絡以下資源：

UBC Law Students Legal
Advice Program
604 822 5791
www.lslap.bc.ca

BC Centre for Elder Advocacy and
Support
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楊太太的故事

楊太太被父親指定為受託人。楊太太的父親年事已高，又常常勞累、患病或心事重重而無法管理自己的日常財務。

楊太太收取父親的退休金和養老金支票存入銀行，並用這些錢為他支付帳單和其他支出。

一天，楊太太聽說了一個高風險的投資機會。她很興奮：她可以用父親的錢進行投資賺更多的錢，並使自己獲利。

她投入了那些錢，而幾星期之後卻發現那是一個騙局！她的父親發現了損失，十分沮喪繼而報警。警員隨後指控楊太太濫用其父的授權書。

作為受託人不是特權，而是責任！

誰可以當受託人？

一名或多名下列人員：

- 19歲以上的成年人
- 有成熟的心智，能為長者處理事務
- 能了解並履行他們的受託事宜
- 能夠並願意依據長者的意願、知識、價值觀和信仰代行責任

受託人的職責

- 真心誠意的代行權力
- 考慮長者的最大利益
- 為長者代行權力，要做到用心、盡職
- 保留每件事情的記錄

須知事項！

- 未喪失做決定的權力，只是由受託人和長者本人共享這個權力
- 受託人不能推翻長者所做的決定
- 授權書不適用於健康方面的決定，而只適用於金融與法律。
- 可指定多名受託人以保證長者的意願得到尊重。
- 授權書不是受託人提前獲得遺產的途徑！

濫用授權即是犯罪！

當你被所愛的人指定為受託人，請明確自己的義務和責任。通過遵守這些規則以保護所愛的人的尊嚴和榮譽。如果忽視了責任，你可能會因為自己的行為而受到懲罰！

計劃合作機構：



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