

Make an Enduring Power of Attorney

An Enduring Power of Attorney (EPA) is a legal document used while you are still alive. In it, you name an **attorney** to make **financial decisions** for you. Your EPA must say when it comes into effect – when you lose **capacity** or on a specific date you choose.

Your EPA should include several items. It's a good idea to review the questions below and then take some time to think and plan before you make your EPA.

***Financial decisions** are decisions about buying, selling, managing or protecting your property.*

***Capacity** is the ability to understand and appreciate the nature of your decisions.*

Revoke (cancel) previous Enduring Powers of Attorney

- Do you already have a valid EPA?
- If yes, do you want to revoke (cancel) your existing EPA and make a new one? If you don't revoke your previous EPAs, then they continue to be valid to the extent they don't contradict newer versions. This can be confusing!
- Do you want to have multiple EPAs, each for different purposes?

Say how your EPA comes into effect

- How will your EPA come into effect (start)? Will it be on a certain date (such as the day you sign it) or a certain event (such as when you lose capacity)?
- Do you want to name someone who declares in writing that the triggering date or event has happened, and your EPA is in effect? If your EPA says it comes into effect when you lose capacity and you don't name a person in your EPA (or that person doesn't want to decide), then two doctors must declare in writing that you've lost capacity to bring your EPA into effect. If your EPA doesn't come into effect when you lose capacity, you must say it continues on once you lose capacity. Otherwise, it will end once you lose capacity.
- If you name specific people, you'll need their name, birth date, contact info and relationship to you.

Choose an attorney

- Who will be your attorney(s)?
- Have you talked to the people you want to be your attorneys? Have they agreed to act? It's not a good idea to name someone without asking them first.
- Do you want to name two or more co-attorneys to act at the same time? If yes, do you want them to act jointly (together) or severally and jointly (both alone or together)? If your EPA doesn't say co-attorneys can act severally, they must do all things jointly.

- Who will be your alternate attorney(s) to act in case your first choice cannot or refuses to act? Do you want to name more alternates in case your first and second choices cannot or refuse to act?
- Do your attorneys have the skills, experience and time to make your financial decisions?
- Do your attorneys have a general idea of your finances (your real estate, accounts, belongings, etc.)? Have you made a list of your property and debts to keep with your EPA (and update as needed)?
- Do your attorneys know what your wishes and beliefs are so they can make financial decisions on your behalf?
- Do you want to pay your attorney for acting for you? You must pay your attorney for any expenses they incur on your behalf, such as photocopying and parking. If you want to pay your attorney for their time, you can say this in your EPA. Otherwise, they'll have to ask the court for an order directing you to pay them reasonable and fair compensation for acting on your behalf.
- For each attorney, you'll need their name, birth date, contact info and relationship to you.

Give your attorney powers

- Will your attorney have the power to make all financial decisions for you?
- If not, what financial decisions can your attorney make for you? Remember, if you limit their powers, they can't decide on things outside their powers. If you don't give anyone power to make certain decisions and those decisions come up, someone will have to get a court order to make those decisions for you.
- Do you want your attorney to have the power to deal with your real property (real estate)? If yes, you must specifically say this in your EPA.
- Do you have specific instructions for your attorney, such as financially supporting your family members, buying gifts for others, or donating to churches or charities?

Ready to get started?

CPLEA's **Estate Planning 101** booklet has more information about what an Enduring Power of Attorney is, choosing an attorney and how to make a legally valid document.

Learn more at cplea.ca/estate-planning-101.pdf