

Powers of Attorney

Ask a trusted person to manage some of your affairs.

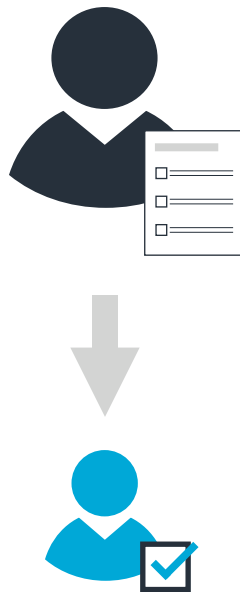


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Important Notice!

The law changes. This guide is up to date to February 1, 2017. This guide is meant as legal information, not legal advice. If you need advice on a specific situation, consult a lawyer or notary. This guide only applies in Quebec.

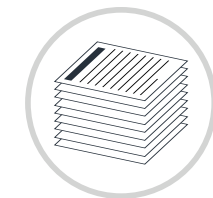
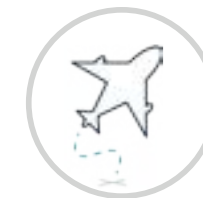
What Is a Power of Attorney?

A power of attorney is a kind of legal agreement.

A power of attorney lets you ask someone you trust to do something on your behalf. In particular, you can ask someone to manage financial affairs and your property.

Why would you want to give someone this responsibility? Here are examples:

- not enough time to manage your affairs
- going on a long trip
- your affairs are complicated
- physical mobility challenges



You Keep the Right to Supervise!

A power of attorney can only be used while you have all your decision-making abilities. (Sometimes, this is called being of “sound mind.”)

This is because you keep the right to supervise the person acting for you. You can ask questions at any time. You can also ask the person to report back to you.

Protection Mandates and Wills: Different Than Powers of Attorney

Protection Mandate

In this legal document, you can name someone to take care of you and your affairs if you are declared “incapacitated” by a court. This person (or people) will manage not only your money and property, but also your health care, housing, food, clothing, etc.

Incapacity means a serious health issue interferes with your decision-making or your ability to express your wishes. For example, a coma or advanced Alzheimer’s could lead to incapacity.

If you are found to be incapacitated, only a protection mandate can be used. At this point, a power of attorney can no longer be used.

To learn more, see Éducaloi’s website or our guide Protection Mandates. The back cover of this guide explains how to get the Protection Mandates guide.

Will

Wills are used to say what happens after your death. So, you can say who you leave your money and property to, who will settle your affairs, etc.

To learn more, see Éducaloi’s website or our guide Wills. The back cover of this guide explains how to get the Wills guide.



Confused about what kind of document you have?

If you have one of these documents, but are not sure which kind it is, consult a legal professional or one of the organizations listed at the back of this guide.

Sometimes, a power of attorney and a protection mandate are in the same document. But they are still for different situations: a power of attorney can only be used while you still have all your decision-making abilities. A protection mandate is for when a person is declared incapacitated.

Sample Power of Attorney

Here is a model of a power of attorney. The Useful Resources section of this guide mentions places to get other models.

Don't use this model without adapting it for your situation! It is just to give you an idea of what the document might look like.

Power of Attorney for Banking

I give to Athena Vassilikos these powers:

1. Deposit my cheques in my account at the Bank of Montreal: account number 12345.
2. Withdraw \$200 from my account on the first day of every month and deliver it to me.

She must deliver to me every month all bank slips for any deposits and withdrawals she does for me.

This power of attorney expires on March 1, 2010.

My name:
Kaliopi Vassilikos

Acceptance of
Athena Vassilikos

Signature

Signature

Date of signature
Place of signature
Address

Date of signature
Place of signature
Address

Power of Attorney: Six Key Points

1. It's a legal agreement.

This means the person acting for you must respect the limits of the powers you gave. Also, this person must act in your best interests.

On the other hand, if the person respects these limits, acts in your best interests and respects the law, it will be hard for you to cancel their decisions.

Remember, you keep the right to supervise the person, ask questions and get reports.

You must know what you are signing.

To give a power of attorney, you must understand what you are doing. Also, you cannot be pressured into giving one.

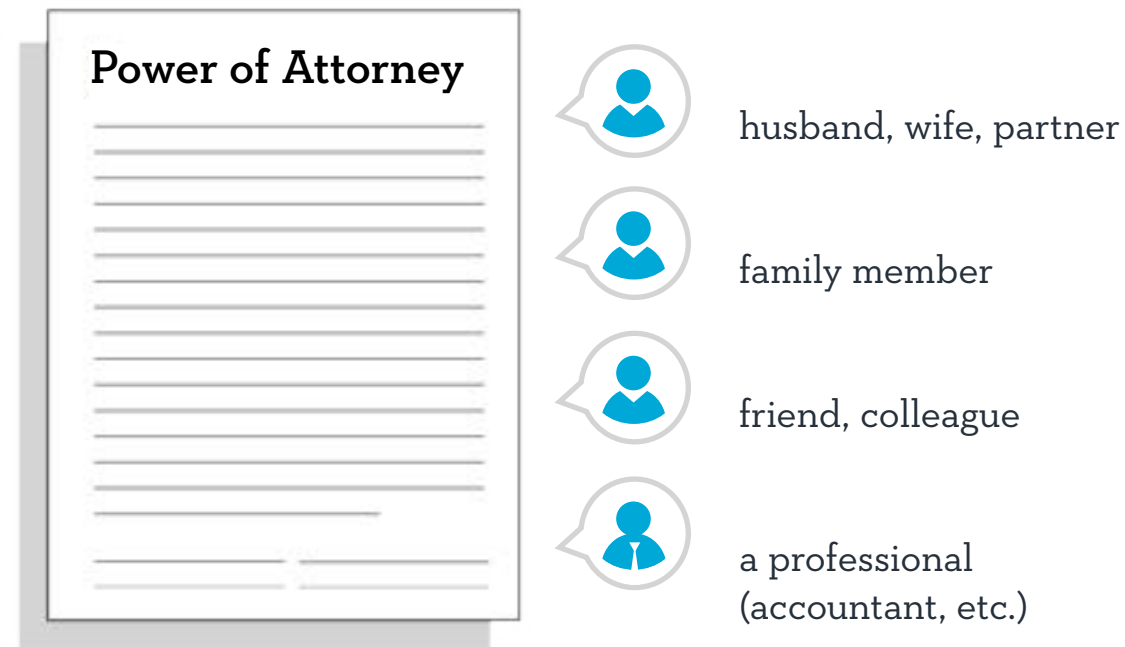
If a power of attorney is signed by someone who did not understand it, or who was pressured, it is not valid.



2. You can name a family member, friend or professional.

The important thing is to name someone trustworthy.

Here are examples of people you can name:



Power of Attorney

- husband, wife, partner
- family member
- friend, colleague
- a professional (accountant, etc.)

Naming a professional means you get some protection: most professionals must follow rules that apply to their professions and are supervised by an oversight organization.

3. You can give it to one person or several people.

You can name one person to do one thing, or several things.

You can also name several people to do one thing, or several people to do different things.

So, you can have more than one power of attorney in place at the same time.

But be careful about naming several people to do the same thing: they might not agree. In these cases, it is a good idea to include rules about how they will make decisions.



Use it only when necessary!

It can be a good idea to use a power of attorney only when necessary, and for a specific time period. You can always renew it if you have to.

Also, many financial institutions offer “direct deposit” and “automatic bill payment” options. This means cheques coming to you go directly into your account, and bills (credit card, telephone, etc.) can be paid automatically from your account. These options can often avoid the need for a power of attorney. Speak to your bank or other institution about setting this up.

4. It can be for one thing or many things.

Examples:

Sign a lease
or contract

Pay bills, do
banking and
manage investments

Deal with
service providers

Sell your
house



Suspect abuse?

Here are some suggestions:

- Discuss the situation with the person involved. In some cases, you can cancel things they did (e.g., the person went beyond the powers given).
- Banks try to watch for unusual transactions. Ask your bank for help.
- You can end the power of attorney at any time, even if it has an expiry date.
- Are you a senior or person concerned about a senior? Contact Quebec's bilingual senior abuse help line: 1-888-489-2287
- If you want compensation (for a loss of money, for example), it is a good idea to seek legal advice. See the resources listed at the end of this guide.

5. You can make it yourself.

You can write one yourself, or ask a notary or lawyer to make one.

If you are giving one for something complicated, or for something that involves a lot of money, it is a good idea to get professional advice.

Legally, a power of attorney can be verbal, but it is a good idea to put it in writing. And most institutions (banks, etc.) will require a written one.

If you make your own, there is no special format to follow. For example, you don't need witnesses. The next page has a list of important information to include.

For models, check the Useful Resources section at the back of this guide.



Do you have to use their forms?

Some institutions and companies have their own forms.

They might ask you to use their forms. But you don't have to if your power of attorney is clear, complete and valid.

Here is some key information to include.

Power of Attorney

Your name

Name of person who
will act for you

Address

Address

Contact information

Contact information

- Powers you are giving and limits on those powers
- How the person will report back to you and how often (e.g., give you bills and reports monthly)
- Payment for the person, if you want to pay (Even if you don't pay a salary, the person is entitled to reimbursement of any expenses.)
- Expiry date
- Any deadlines for getting things done
- Date of signature

Your signature

Signature of other person

6. You can end it at any time.

You can end it when you want to, even if it has an expiry date.

If you end it, here are important things to do:

1. Tell the person acting for you and ask for a report.
2. Tell everyone that person was dealing with on your behalf (banks, etc.).
3. Get back all originals and copies of the power of attorney and write on it that it is cancelled.



You had a notarized power of attorney?

Tell the notary, who will write on it that it has been cancelled.

A power of attorney also comes to an end in these situations:

- The person you named dies, or is declared incapacitated by a court.
- You are declared incapacitated by a court. The person named in your attorney must make a final report to whoever is taking over management of your affairs. If you have a protection mandate, a court can activate it.
- You die. The person named in your power of attorney must give a report to the executor (officially called a “liquidator”) – the person responsible for settling your affairs.

Legal Information

Éducaloi

www.educaloi.qc.ca

See especially www.educaloi.qc.ca/seniors

Justice Québec

www.justice.gouv.qc.ca

Go to “Publications” then “General Information.”

Free, Bilingual Notary Information Line

Chambre des notaires du Québec

1-800-668-2473

Find a Notary

Chambre des notaires du Québec

www.cnq.org

Switch to English, then go to “Find a Notary.”

You can search by language, region, accessibility for people with limited mobility and notaries who accept legal aid.

Find a Lawyer and Get a Free or Low-Cost Consultation

Quebec Bar (professional order for lawyers)

www.barreau.qc.ca/en/public/trouver/avocat/index.html

Or call:

- Island of Montreal: 514-866-2490 (first 30 minutes for \$30)
- Longueuil: 450-468-2609 (first 30 minutes for \$50)
- Quebec City, Beauce and Montmagny: 418-529-0301 (first 30 minutes for free)
- Other regions of Quebec: 1-866-954-3528 (one-hour consultation for \$100)

Free and Low-Cost Legal Services (legal clinics, etc.)

Quebec Bar List

www.barreau.qc.ca

Switch to English. Locate “For the Public” in the middle of the page. Click on “Access to Justice” on the left side, then “Pro bono or low cost services.”

La boussole juridique

www.votreboussolejuridique.ca

Search for legal information and services by region of Quebec.
(Website in French only)

Community Justice Centres (Centres de justice de proximité)

www.justicedeproximite.qc.ca

Get legal information in person and sometimes by phone.

Model Powers of Attorney

Autorité des marchés financiers (Quebec agency that oversees financial markets and services):

www.lautorite.qc.ca

Go to “Publications”, then “Entrusting the management of your affairs to someone.”

Justice Québec (Quebec ministry of justice)

www.justice.gouv.qc.ca

Go to “Publications”, then “General Information”, then “Your Business.”

3 Different Documents



You can make your own decisions.
But you need help getting things done.

= **Power of Attorney**



Decision-making is affected by a serious health problem.

= **Protection Mandate**



You have died.

= **Will**

Éducaloi explains the law to Quebecers in everyday language.



Read about these and other topics at www.educaloi.qc.ca:

- Wills
- Estates
- Planning ahead
- Housing issues for seniors
- Preventing fraud, exploitation and abuse
- Health care decisions
- Protections for vulnerable people



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