



# Make Your Own Wills

## Personal Directive Questionnaire

also known as a Health Care Directive, Advance Directive, Power of Attorney for Personal Care, Representation Agreement

**\*\*\*For use for every jurisdiction in Canada except Quebec and Nunavut\*\*\***

*Please complete the following questionnaire and upload with payment  
You will receive your documents (ready for signing) in 2-3 business days or sooner.*

A Personal Directive is a legal document that allows you to name a person (an “Agent”, “Proxy”, “Attorney for Personal Care”, “Health Care Proxy”, “Substitute Decision Maker”, “Representative” or a “Delegate”) to make personal decisions on your behalf when you no longer have the required mental capacity to do so. A Personal Directive is also known in some provinces/territories in Canada as a Health Care Directive, Representation Agreement, Enduring Power of Attorney Appointing a Personal Attorney, Advance Directive, Advanced Health Care Directive or a Power of Attorney for Personal Care. **For the purposes of this Questionnaire, we will refer to the document being created as a “Personal Directive” and the person appointed to act under that directive as an “Agent”.**

In the absence of a completed Personal Directive, interested parties would have to retain a lawyer and apply to become your Guardian or Substitute Decision Maker under your province/territory’s applicable legislation. This is an expensive and extremely lengthy process, one that your assets would likely be required to pay for in the end.

### Terminology for each Canadian Jurisdiction:

Province	Name of Document	Person Appointed to make personal and health care decisions is called	Required Age to Make the Document
British Columbia	Representation Agreement	Representative	19 years
Alberta	Personal Directive	Agent	18 years
Saskatchewan	Enduring Power of Attorney Appointing a Personal Attorney -and- Health Care Directive (can be made by 16 year old)	Attorney -and- Proxy	
Manitoba	Health Care Directive	Health Care Proxy	16 years
Ontario	Power of Attorney for Personal Care	Attorney	16 years
Nova Scotia	Personal Directive	Delegate	19 years
New Brunswick	Enduring Power of Attorney for Personal Care	Attorney	19 years
Prince Edward Island	Health Care Directive	Proxy	16 years
Newfoundland & Labrador	Advance Health Care Directive	Substitute Decision Makers	19 years
Northwest Territories	Personal Directive	Agent	19 years
Yukon Territory	Advance Directive	Proxy	16 years
Nunavut Territory	This Territory does NOT allow for a PD	Not Applicable	Not Applicable

**\*\*\*Note that the province of Quebec is excluded because Quebec law is based on a Civil Law system, whereas the remainder of Canada operates based on a Common Law System. Nunavut is also excluded because it does**

not have legislation enacted that permits or allows any sort of directive as a legally enforceable estate planning instrument.\*\*\*

It is important then, to avoid the expenses of litigation and court procedures, to prepare a complete estate plan. Note a complete estate plan consists of **three** documents:

- A **Personal Directive**: this document is only in effect while you are alive and lack mental capacity and only touches personal matters;
- An **Enduring Power of Attorney/Continuing Power of Attorney/Enduring Power of Attorney for Property**: this document is only in effect while you are alive and lack mental capacity and only touches your property and financial matters; and
- A **Will**: this document comes into effect when you die and deals with all matters: property, financial matters and personal decisions such as funeral wishes and organ and tissue donation.

***Please note that the law requires that the maker has mental capacity at the time of giving instructions (ie. completing this document) and at the time of signing the Personal Directive document. By completing this document and by uploading this document to makeyourownwills.com you are hereby agreeing to all our terms and conditions and acknowledge and represent that the maker/donor/grantor has the required mental capacity to complete this document. You further acknowledge that makeyourownwills.com does not assess capacity nor does makeyourownwills.com make any representations as to capacity of the maker when documents are delivered.***

*\*Note: Completing this document only provides instructions to makeyourownwills.com to prepare your Personal Directive documentation for you to sign. Your Personal Directive documentation will only be considered "completed" once you print and properly sign the document.*

## Section 1: Your Information

Name: \_\_\_\_\_  
(insert your full legal name)

Any known alias: \_\_\_\_\_

*\*include only if you have different names on your birth certificate and other government/banking/official documentation, and/or on title to any real estate or mines and mineral rights, etc. (for example: your name is Robert, but some of your documentation states "Bobby" or "Bob" as your first name)*

Your Address:

\_\_\_\_\_

## Section 2: Agent's Information

Typically, people appoint one person to act as their Agent and then an alternate person to replace the first appointed person should they be able to act. However, some people prefer to have two or more people do the job together and appoint joint/co-Agents to act on their behalf. There are two different ways to appoint joint/co-Agents to act;

The first is to appoint them as "joint" Agents. This essentially means that they must act together and agree unanimously on all personal matters.

The second is to appoint them as "joint and several" Agents. Joint and several essentially means that your Agents may act together or separately on your behalf. This allows for one Agent to appear in person if needed while the other is away on vacation.

It is important to note that many jurisdictions in Canada prohibit the appointment of a person who otherwise provides personal care, legal services, health care or social services to the maker for compensation as Agent UNLESS that person is also the maker's spouse, common law partner or relative.

**Your appointed Agent MUST be of legal age in the province/territory you reside in (which is either eighteen (18) or nineteen (19) years or age).** Ontario is the exception: if you reside in Ontario, you can make a Power of Attorney for Personal Care at the age of sixteen (16) years and you can appoint an Attorney for personal care who is sixteen (16) years of age or older.

**First Appointed Agent:**

*Note if you are in a happily married relationship or common law partnership, your spouse/common law partner is typically the first appointed Agent.*

Name: \_\_\_\_\_  
*(insert your full legal name)*

Relation to you: \_\_\_\_\_  
*(example: spouse, friend, sister, brother, mother, etc.)*

Address: \_\_\_\_\_

*In the event your first appointed Agent is unable to carry out the duties of Agent, you need to appoint an alternate/second Agent to make personal decisions on your behalf.*

**Second Appointed Agent:**

Name: \_\_\_\_\_  
*(insert your full legal name)*

Relation to you: \_\_\_\_\_  
*(example: spouse, friend, sister, brother, mother, etc.)*

Address: \_\_\_\_\_

Appoint this Agent to act: *(you MUST select **ONE** option below)*  
after the first Agent is unable to act;  
jointly with the first Agent;  
*(both MUST do everything together no matter what the circumstances);*  
joint and several with the first Agent.  
*(they both can act together or one can act alone if necessary)*

**Third Appointed Agent:**

*Note, it is rare to have a third appointed Agent, but some people prefer to have three.*

Name: \_\_\_\_\_  
*(insert your full legal name)*

Relation to you: \_\_\_\_\_  
*(example: spouse, friend, sister, brother, mother, etc.)*

Address: \_\_\_\_\_

Appoint this Agent to act: *(you MUST select **ONE** of the options below)*

after the first two Agents are unable to act;

jointly with the first and second Agent;

*(all three MUST do everything together no matter what the circumstances)*

joint and several with the first and second Agents;

*(all three can act together or one can act alone or two can act without the third if necessary)*

jointly with the second Agent only;

*(both MUST do everything together no matter what the circumstances)*

joint and several with the second Agent only.

*(both can act together or one can act alone if necessary)*

### Section 3: Coming into Effect

A Personal Directive comes into effect when you lack capacity to make a decision about any of your personal matters and:

- a) your Agent signs a written certification to that effect;
- b) two “service providers” or “assessors”, at least one of whom is a physician or psychologist, sign a written certification to that effect; or
- c) a specific person (designated by you to assess your capacity) signs a written certification to that effect

Please select how you would like your Personal Directive to come into effect:

my Agent signs a written certification to that effect after consulting with a physician or psychologist and if my Agent is unwilling to do so, then when two service providers, at least one of whom is a physician or psychologist, sign a written certification to that effect;

When two (2) physicians determine that I am mentally incapacitated and sign a written certification to that effect;

When a specific person signs a written certification to that effect:

Full Legal Name: \_\_\_\_\_

Relation to you: \_\_\_\_\_  
*(example: physician, spouse, friend, sister, brother, mother, etc.)*

Address: \_\_\_\_\_

## Section 4: Guardianship for Minor Children

Note: only complete this section if you have children under the age of eighteen (18) years

In the event you are alive, but are mentally incapacitated, and your spouse (if applicable) or other legal guardian or parent of your children has died or is unable to care for your child(ren), please specify who you would like to act as guardian for your child(ren) while you are mentally incapacitated.

**NOTE: if you are naming a guardian in this section, you MUST name the SAME person you named as guardian in your Enduring Power of Attorney/Continuing Power of Attorney/Power of Attorney for Property (if you named a guardian in that document)**

Name of the Guardian you wish to appoint: \_\_\_\_\_  
(insert full legal name)

Relation to you: \_\_\_\_\_  
(ie spouse, friend, sister, brother, mother, etc.)

## Section 5: Agent's Powers

Because an Agent is governed by the *Trustee Act*, he/she can only act within the scope of the powers given to them in a legal document (such as a Personal Directive). As a result, if the legal document does not give them the power to make a decision about a certain activity, the Agent will need permission from the court (via a court application and order) to make such a decision. This can be costly and time consuming.

Please select all of the areas of personal care that you would like your Agent to make non-financial decisions about on your behalf: *Note: in order for a Personal Directive to be of use, every area is typically included in the Agent's authority. Should you decided not to allow your Agent's any one of the below authorities, it may result in the requirement by them to obtain a court order to make decisions, the cost of which would come out of your assets.*

my health care  
my accommodation  
with whom I may live and associate  
my participation in social, education and employment activities  
legal matters that do not relate to my estate  
any other matters as allowed by the legislation in my province/territory

## Section 6: Specific Guidelines for Agent in Certain Circumstances

You may wish to include specific instructions to your Agent in the event of a health crisis. For instance, if you wish to not be resuscitated, then this is a specific instruction to your Agent.

Note that if you do not provide any specific instructions, or they are unclear, then your Agent MUST make the decision they believe you would want made based on their knowledge of your wishes, beliefs and values.

**IMPORTANT:** the current laws of Canada do not allow a person to request medical assistance in dying ("MAID") in advance, meaning that you cannot provide instructions specifying medically assisted death in your Personal Directive.

Please select all of the specific guidelines/instructions you wish to specify for your Agent:

Do everything possible to maintain my life

If I am in a coma or persistent vegetative state, and in the opinion of my treating physician, I have no known hope of regaining awareness or higher mental functions no matter what is done, then treat me for relief and physical distress only. I refuse consent to any techniques to maintain bodily functions (pull the plug)

I wish to be kept comfortable and free from pain even though such pain medication may dull my consciousness or indirectly shorten my life

If my Agent and physician determine that my death is imminent, I do not want my life prolonged by artificial means of ventilation, dialysis, tube feedings or intravenous hydration (except for analgesic medication administration)

I would like to donate my organs and tissues

My religious beliefs will not allow me to consent to the following procedures or treatments:

(please specify) \_\_\_\_\_

Other: (please specify) \_\_\_\_\_

## Section 7: Signing

The date of signing on the documents generated by makeyourownwills.com default to the year that you have paid for the documents. The day and month will be blank for completion by you. The year defaults to ensure that you sign the documents in a timely manner once generated. **Instructions for signing will be provided with your Personal Directive.**