



About Enduring Power of Attorney

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YPLEA New Horizons for Seniors Project

- New Horizons for Seniors project runs to March 31, 2015
- Sponsored by Yukon Public Legal Education Association & funded by Canadian Government's New Horizons for Seniors program
- Purpose of the project is to provide education to elders and seniors on
 - Recognizing and preventing abuse or neglect of older adults
 - Ways to plan for support in making decisions about your money, your property, your health care and personal care for daily living
 - Information about wills, enduring power of attorney and other legal tools to assist in planning as you get older.



What is a Power of Attorney?

- give another person legal power to make financial and legal decisions for you while you are alive
- General (all financial matters) or
- Specific (certain purpose)
- Terms: **donor** and **attorney**

What is an *Enduring Power of Attorney*?



- Power of attorney that continues in effect even if you are no longer mentally capable of managing your affairs after signing the document.
- May avoid disputes between family members
- Saves having to go to court to have a **guardian** appointed by a judge

Who can give an EPA?



- 19 years of age or older
- Capable of understanding what he or she is signing when it is signed



Who can be “attorney”?

- 19 years of age or older - trustworthy
- Willing to sign
- Stating understanding of duties & responsibilities of being your attorney
- Could be institution/agency but costs
- Could have more than one, acting together or individually

What are legal requirements for EPA?



- EPA is signed by you in front of witness
- contains statement:
 - to continue if you become mentally incapable
OR
 - to start when you become mentally incapable

See pages 22 to 24 for sample EPA's.

What are legal requirements?

Attachments needed:

- Schedule of Notes (p. 21) – donor signs
- Statement of Attorney – (p. 25) person who you appoint as attorney signs
- Certificate of Legal Advice – (p. 26) requires lawyer to sign to ensure you understand what you are signing



What are duties of Attorney?

- always acts in your best interests – no conflict of interest with those of donor
- manage finances and affairs in reasonable and prudent manner
- as outlined by you in EPA Notes
- See “My Role as Attorney” info sheet

What are duties of Attorney?

- You can set limits regarding:
 - payment for attorney, actions like selling land, dealing with investments, paying bills
- Attorney cannot
 - change will
 - change beneficiary designations
 - after 2005, make health care decisions for you.
Use Advance Directive (see www.hss.gov.yk.ca)



When does EPA start?

Starts:

- When you say it starts OR
- When you sign EPA



When does an EPA end?

- If you die
- Your attorney or any alternate dies
- If EPA is cancelled by you in writing while you're capable
- If judge orders that EPA is no longer in force
- If you become bankrupt
- If your attorney resigns & you no longer mentally capable – attorney applies to court

Can I act for myself at the same time as my Attorney?



NO!

- Causes confusion and unclear records of transactions.
- Could result in liability of your attorney if funds or transactions cannot be accounted for



How can I prevent abuse by attorney?

- appoint person(s) you trust /are reliable
- can limit powers
- appoint two attorneys and make them accountable to each other
- ensure family members know how to apply to court for accounting of affairs if they fear abuse



What if EPA from outside Yukon?

- Valid for use in Yukon with written statement from preparing lawyer
- Best to update to Yukon EPA