

## Common Nova Scotia legal documents you should know about

Legal Document	Purpose	If no document	Scope/Limitations
<b>Power of Attorney</b>	Enables a person (the donor) to give another person (the attorney) power to act on his/ her behalf within the limits set out in the Power of Attorney	A relative or friend may be able to provide some help. They may have to seek a representation order from the courts	<ul style="list-style-type: none"> <li>- Deals with financial and property issues only, not medical treatment/ personal matters.</li> <li>- Does not prevent or limit the donor's right to make decisions provided the donor has capacity.</li> <li>- Ceases to have effect if the donor or the person receiving the power becomes incompetent, lacks capacity, or dies.</li> <li>- Can be revoked at any time by the donor provided donor has capacity.</li> </ul>
<b>Enduring Power of Attorney</b>	Enables a person (the donor) to give another person (the attorney) power to act on his/her behalf within the limits set out in the Power of Attorney. Continues in effect if donor becomes incapacitated.	A relative or friend may be able to provide some help. They may have to seek a representation order from the courts	<ul style="list-style-type: none"> <li>- Must specifically say that it will continue in effect if the donor loses capacity.</li> <li>- Deals with financial and property issues only NOT medical treatment/ personal matters.</li> <li>- Does not prevent or limit the donor's right to make decisions provided donor has capacity.</li> <li>- Can be revoked at any time provided the donor has capacity.</li> <li>- Ceases to have effect if the attorney becomes incompetent, lacks capacity, or dies or if the donor dies.</li> </ul>
<b>Medical Consent</b>	<b>Before April 2012</b> , under the Medical Consent Act (MCA), a person could appoint another person to give medical consent on his/her behalf if the person was unable to do so due to loss of capacity.	A person appointed by a court as a representative, guardian or (if none) the nearest relative or, if the person is in hospital or psychiatric facility, a substitute decision maker as listed in the NS Hospitals Act would be asked to consent	<ul style="list-style-type: none"> <li>- Limited to medical decisions. Did not include personal or financial property matters.</li> <li>- Delegate did not have to follow person's wishes.</li> <li>- The MCA was replaced by the Personal Directives Act in 2012. An appointment made under the MCA is still valid.</li> <li>- The appointment of the delegate can be revoked at any time provided person has capacity.</li> </ul>
<b>Personal Directive</b>	<b>Since April 2012</b> , a person can appoint another person (delegate) to make decisions about all personal care decisions and healthcare decisions.	A person appointed by a court as a representative, guardian or (if none) the nearest relative or, if the person is in hospital or psychiatric facility, a substitute decision maker as listed in the NS Hospitals Act would be asked to consent	<ul style="list-style-type: none"> <li>- Does not deal with financial matters.</li> <li>- The delegate must follow the expressed wishes of the person who appointed the delegate</li> <li>- The appointment of the delegate can be revoked at any time provided the person has capacity to revoke.</li> <li>- For more information visit <a href="http://novascotia.ca/just/pda">novascotia.ca/just/pda</a></li> </ul>

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<b>Guardianship</b>	<b>Before December 28 2017</b> , under the Incompetent Persons Act (IPA), a Court Order appointing a person to act as the guardian of an adult who is deemed incompetent. Medical evidence required by the judge	Relatives may be able to make some decisions for the person.  There may be an Enduring Power of Attorney or a Personal Directive in place which would allow decisions to be made	- The IPA was replaced by the Adult Capacity and Decision-Making Act (ACDA) in December 2017. An appointment under the IPA is still valid. However, a guardian appointed under the IPA is now a representative under the ACDA and has the same duties and responsibilities as a representative.
<b>Representation Order</b>	<b>Since December 28 2017</b> , under the Adult Capacity and Decision-making Act (ACDA), a Court Order appointing a person to act as the representative of an adult who does not have capacity to make their own decisions on significant issues. Medical evidence required by the judge	Relatives may be able to make some decisions for the person already.  There may also be an Enduring Power of Attorney and/or a Personal Directive in place which would allow decisions to be made	- Order can be revoked by a court if the person regains capacity - Medical evidence required (capacity assessment) - Capacity assessed by a physician, psychologist or other trained health professional to assess person's ability to understand relevant information and understand the reasonable foreseeable consequences of a decision. There can be degrees of capacity. - Representation order may authorize representative to make one or more decisions - Must be least restrictive and least intrusive. Representative must follow adult's wishes where possible, and encourage and support adult's own decision-making - The Order ceases to have effect on the death of the person or the representative. - For more information visit <a href="http://novascotia.ca/just/pto">novascotia.ca/just/pto</a>
<b>Will</b>	Enables a person (the testator) to decide who will inherit their property when the testator dies.	Person is said to die intestate (without a will) and property will be divided in accordance with the provisions of the NS Intestate Succession Act.	- Does not come into effect until the testator's death. The testator can deal with property as testator wishes during their lifetime. - The testator can change or revoke the will at any time provided testator has capacity. - Common-law spouses are not considered "spouses" under the NS Intestate Succession Act unless they are in a Registered Domestic partnership but they can apply to court for support or a share of the estate.