CLEO | Community Legal Education Ontario
Éducation juridique communautaire Ontario

Elder Abuse Prevention Ontario

Power of Attorney for Personal Care

Safeguard wishes and take steps to prevent abuse

January 19th, 2023

1:00 PM - 2:00 PM

FREE WEBINAR

SPEAKER

Megan Stuckey

Lawyer with Advocacy North for Elders & Seniors and the Sudbury Community Legal Clinic

Ontario

Information and opinions expressed here today are not necessarily those of the Government of Ontario

LAND ACKNOWLEDGEMENT

WEBINAR HOUSEKEEPING

Communication

All attendees will be muted during the webinar.

Speaker

Will be visible while presenting and for the Question/Answer session.

ASL Interpreters

Image and name (ASL Interpreter) will be visible during the webinar. View all speakers by clicking gallery view.

Can also PIN the ASL Interpreter to have image on your screen at all times.

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Drag the line, between the image frame and slides, to the left to make speaker image larger.

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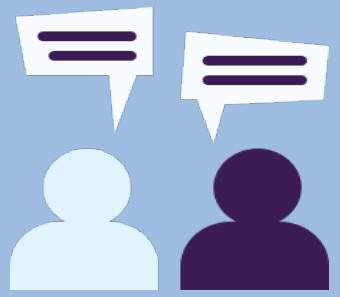
WEBINAR HOUSEKEEPING



Chat Box

Post comments during the session.

Question Box

Type your questions in Question/ Answer box.

A response will be posted during the webinar *or* asked to speaker after the presentation.

WEBINAR HOUSEKEEPING

Evaluation

Your feedback on knowledge gain from session and suggestions for future topics is appreciated. Options to access survey:

- QR Code
- pop-up notice with link to survey
- Follow-up email with survey link

Recording

A recorded version of this webinar will be available on EAPO's website.

WEBINAR HOUSEKEEPING

Respecting Privacy and Confidentiality

EAPO appreciates there may be personal circumstances or issues which participants may wish to address. However, in keeping with our commitment to maintaining your privacy and confidentiality, today we will be answering general questions posed through the Q&A.

If someone wishes to discuss specific circumstances, we invite you to contact EAPO following this webinar to arrange for a confidential conversation so that we may further assist you.

Elder Abuse Prevention Ontario

MISSION

EAPO envisions an Ontario where ALL seniors are free from abuse, have a strong voice, feel safe and respected.

ACTION

Raising awareness, delivering education and training, working collaboratively with like-minded organizations and assisting with service coordination and advocacy.

STOP ABUSE – RESTORE RESPECT

SIMPLY PUT, WE ALL HAVE A ROLE TO PLAY

EAPO is mandated to support the implementation of Ontario's Strategy to Combat Elder Abuse.

Funded by the ON Government, under the Ministry for Seniors and Accessibility (MSAA)

Ontario

Ontario's Strategy to Combat Elder Abuse

1

Public Education and Awareness
A Province-wide, multi-media public education campaign to promote awareness about elder abuse and provide information on how to access services.

2

Training for Front-Line Staff
Specialized training to staff from various sectors, who work directly with seniors, to enhance their knowledge and skills to recognize and respond to elder abuse.

3

Co-ordination of Community Services
To strengthen communities across the province by building partnerships, promoting information sharing and supporting their efforts to combat elder abuse.

3 Pillars of the Strategy

CLEO | Community Legal Education Ontario
Éducation juridique communautaire Ontario

Cleo.on.ca

Produces free legal information

- focuses on needs of low-income and marginalized communities

Supports community and legal workers in helping people with legal problems by providing:

- training about the law
- tools and resources
- skills building
- lesson plans

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cleoconnect.ca

CLEO Connect | Training and tools for community workers

Share Subscribe for updates

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CLEO Webinars: Hot Legal Topics Webinars

CLEO hosts webinars for community workers on a variety of current legal topics. The webinars feature legal clinic lawyers and other experts.

View CLEO COVID-19 webinars

Privacy - Terms

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stepstojustice.ca

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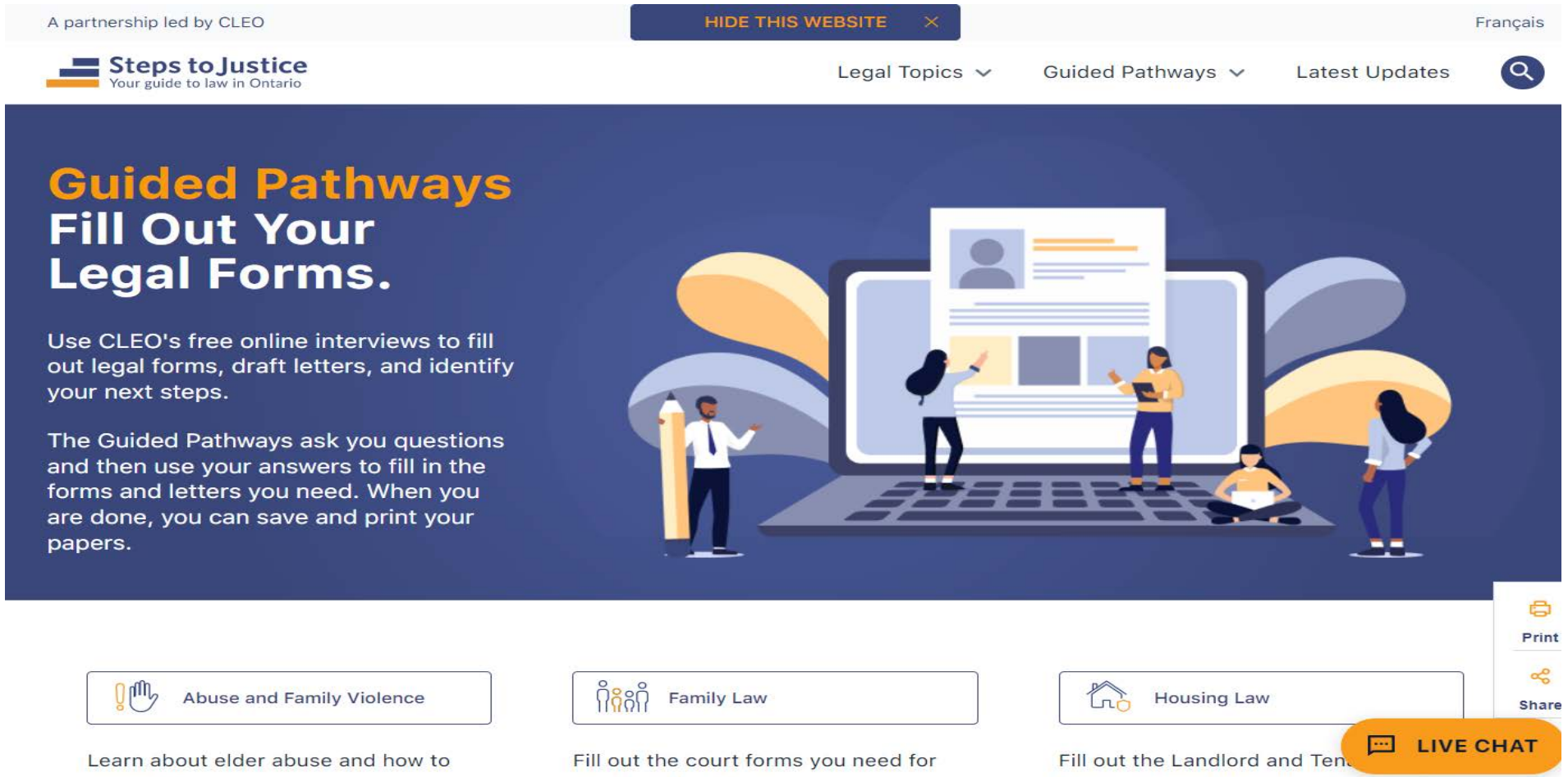

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Elder Abuse Prevention Ontario | Prévention de la maltraitance envers les aînés Ontario

Preparing a Power of Attorney for Personal Care

Safeguard wishes and prevent abuse

Speaker

Megan Stuckey is a staff lawyer at the Sudbury Community Legal Clinic. She was called to the bar in 2017 and spent four years practicing criminal defence, appearing in the Ontario Court of Justice, Superior Court of Justice, and the Court of Appeal.

In 2022, she transitioned into Elder & Senior Law and currently runs the Advocacy North for Elders & Seniors program, providing legal services to low-income seniors across Northern Ontario.

Megan Stuckey

Lawyer, Advocacy North for Elders & Seniors and the Sudbury Community Legal Clinic

What is a Power of Attorney (POA)?

Two types:

- **Power of Attorney for Personal Care**
- Power of Attorney for Property

Myth Busting

Activity — Myth Busting

My POA should include my future health care instructions.

Activity — Myth Busting

Activity — Myth Busting

My common-law spouse can make health care decisions for me without a POA.

Activity — Myth Busting

Activity — Myth Busting

A hospital or a long-term care home cannot require me to have a POA.

Activity — Myth Busting

Activity — Myth Busting

I need a lawyer to make my POA.

Activity — Myth Busting

Making a POA with Guided Pathways

Guided Pathway to preparing a power of attorney

CLEO's Guided Pathways now offer interactive interviews to help you make powers of attorney. The Guided Pathways are free to use.

You can use the guided pathways to:

- Make a Continuing Power of Attorney for Property that gives another person the power to manage your property for you. Property is anything you own or have the sole right to use, like money, a rental apartment, or furniture.
- Make a Power of Attorney for Personal Care that gives another person the power to make decisions about your personal care, if you can't make them yourself. Personal care includes things like healthcare, housing, food, clothing, hygiene, and safety.
- Cancel an old Power of Attorney.

Make a Power of Attorney
using CLEO's Guided Pathways

The Guided Pathways ask you a series of questions about your circumstances, give you information to help answer them, and create documents based on your answers.

Wills and Power of Attorney Guided Pathways

- Wills and Powers of Attorney Guided Pathways
- Making a will
- Preparing a power of attorney

CLEO's Guided Pathways

- About Guided Pathways
- Family Law
- Housing Law
- Wills and Powers of Attorney
- Need help?

Print
Share
LIVE CHAT

Welcome to the Guided Pathways

New Users

We suggest that you **create an account**. This is because it can take anywhere from a few minutes to a few hours to answer all of the questions in a pathway or interview.

How long you'll need depends on your situation and how much information you have to give. Having an account lets you save your work, take a break, collect any information you are missing, and then carry on from where you left off.

You can choose to **continue as a guest**, instead of creating an account. But then you have to answer all of the questions without stopping, until you reach the end.

Create an Account | Continue as Guest

Sign into your account

Email

Password

Log In | Remember Me | Forgot Password

For help setting up an account and other technical support, contact **support@cleo.on.ca**

We can't give legal advice or help you answer questions. If you need legal help or advice, **talk to a lawyer.**

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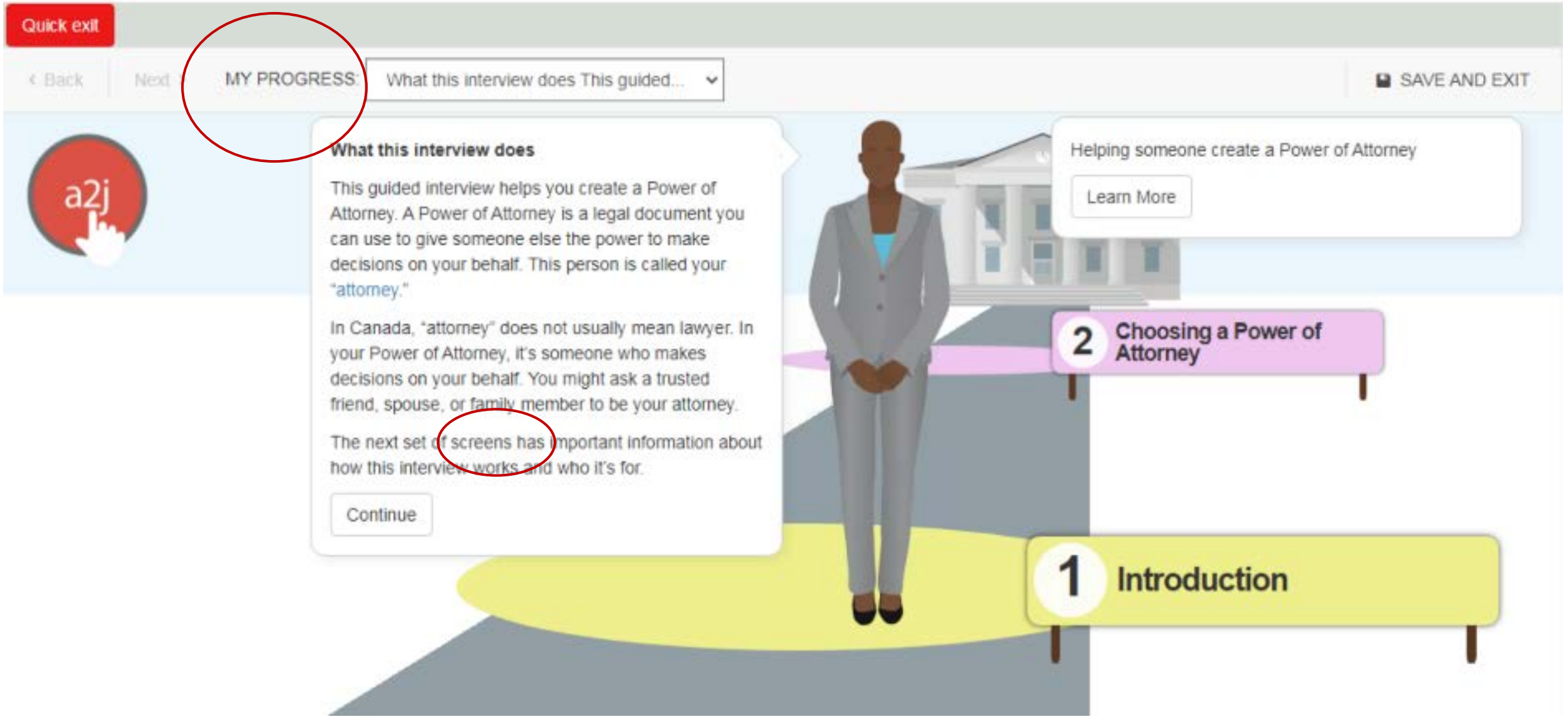
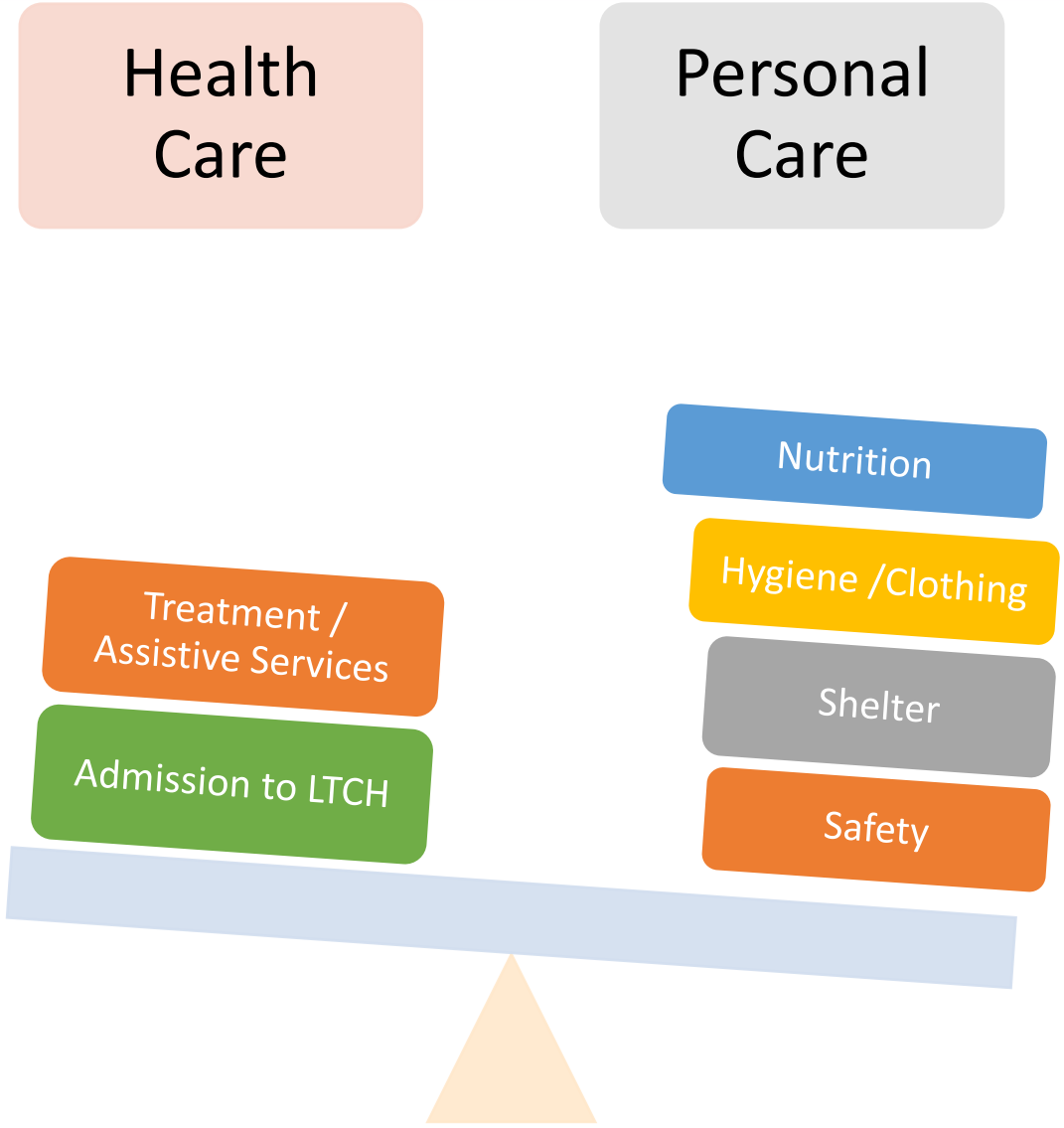

Quick exit
Back
Next
MY PROGRESS:
What this interview does This guided...
SAVE AND EXIT
a2j
What this interview does
This guided interview helps you create a Power of Attorney. A Power of Attorney is a legal document you can use to give someone else the power to make decisions on your behalf. This person is called your "attorney."
In Canada, "attorney" does not usually mean lawyer. In your Power of Attorney, it's someone who makes decisions on your behalf. You might ask a trusted friend, spouse, or family member to be your attorney.
The next set of screens has important information about how this interview works and who it's for.
Continue
Helping someone create a Power of Attorney
Learn More
2 Choosing a Power of Attorney
1 Introduction

Getting Started

Important definitions

- **Attorney**: the person authorized to make decisions under a Power of Attorney
- **Grantor**: the person who created and signed the Power of Attorney
- **Power of Attorney**: the physical document, **NOT** a person

Kinds of Decisions



Who can complete a POA for Personal Care?

You must:

- Be at least 16 years old **AND**
- Have the necessary mental capacity

What does “mental capacity” mean?

You must understand:

- whether the person you are appointing genuinely cares about you

AND

- that they might have to make decisions for you

Who assesses mental capacity to do a POA for Personal Care?

- If a lawyer is assisting you, they assess capacity

- If you are doing it yourself, you assess your own capacity

Mental Capacity to Make Decisions

Different from your capacity to make a POA

Mental Capacity to Consent to Treatment

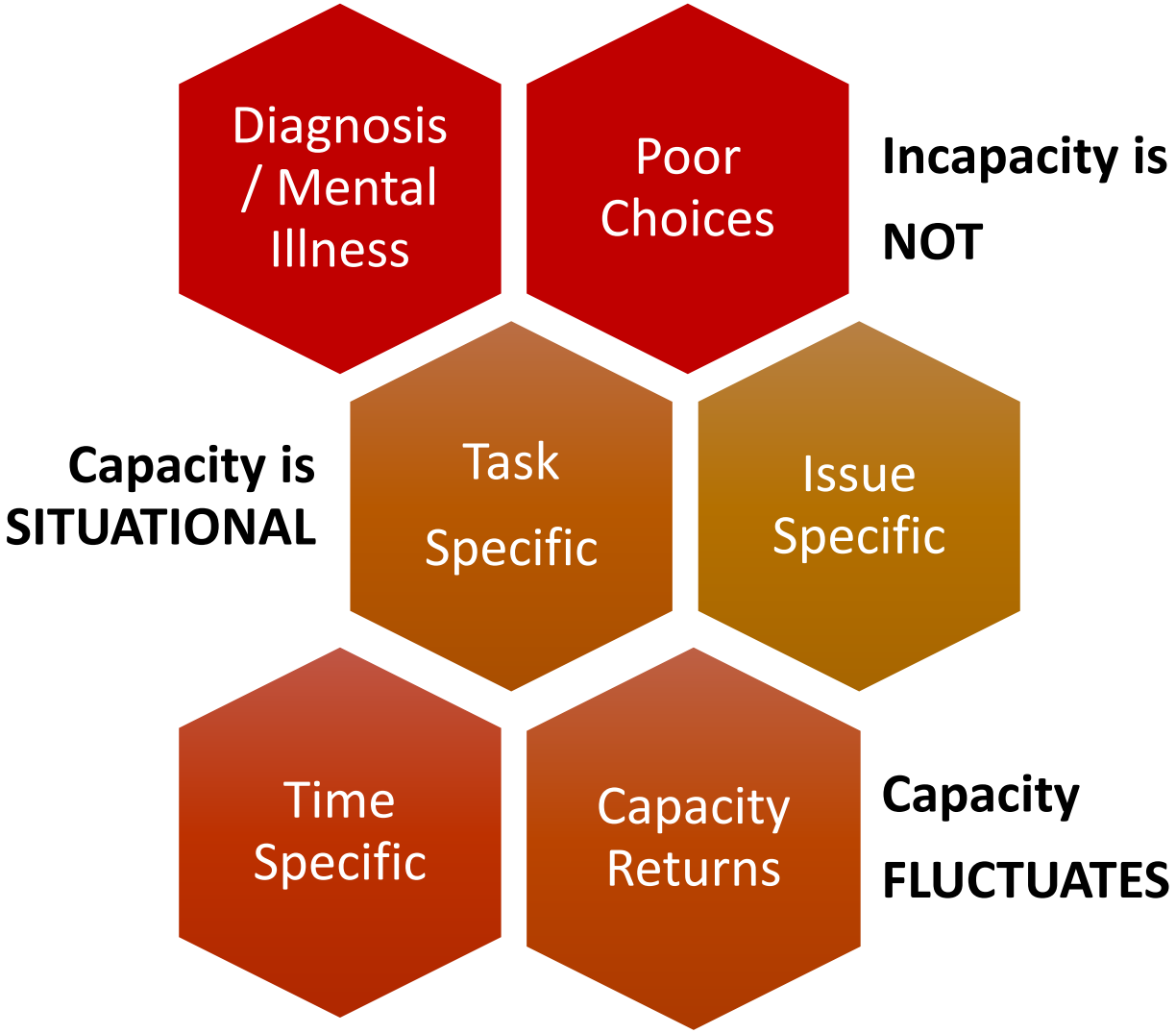
- Presumed if 16+
- The person providing treatment/service decides if you have capacity to consent.
- Must have reasonable grounds to suggest you lack capacity

What is Capacity?

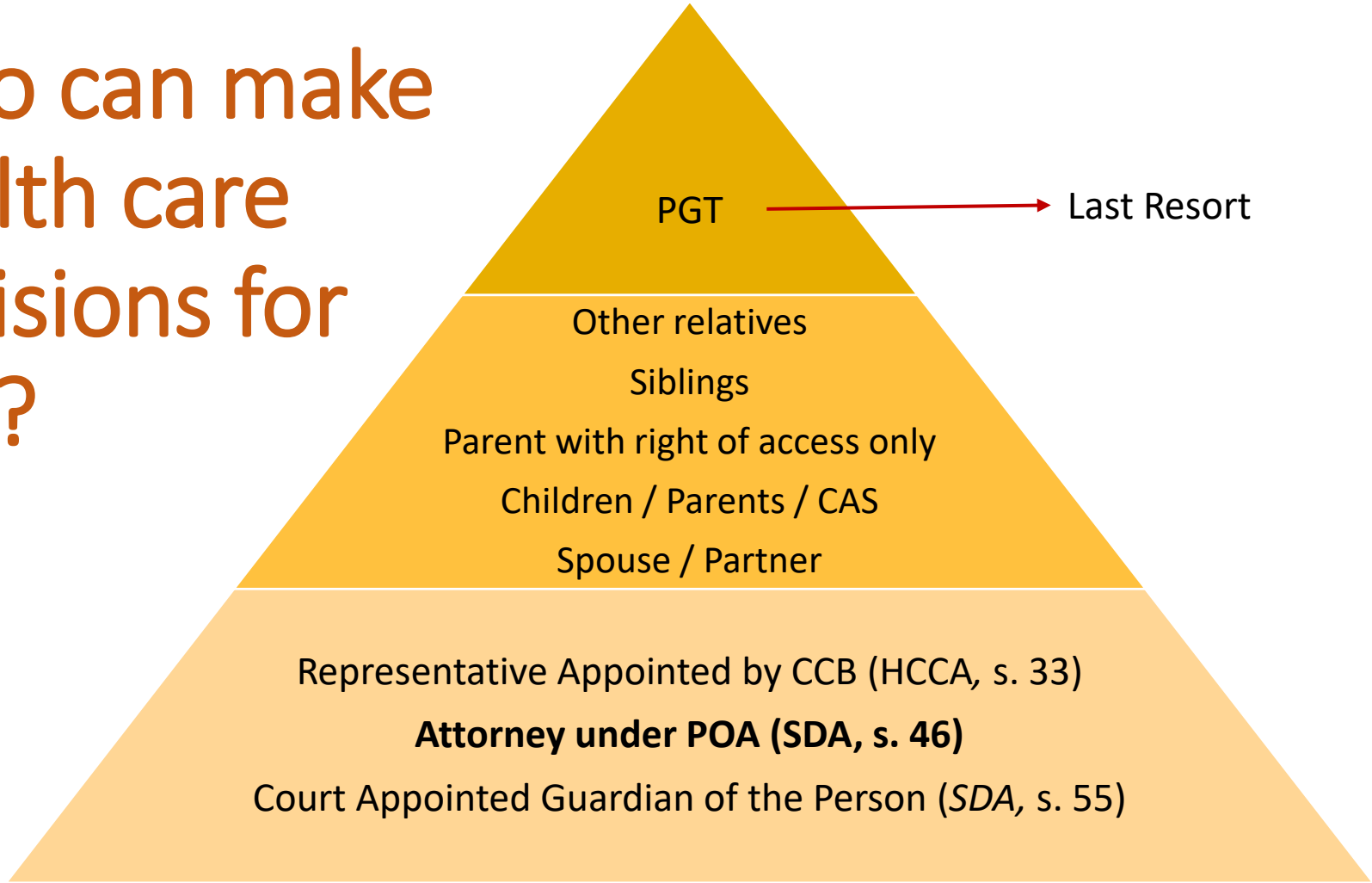
Mental capacity is the **ability** to

(1) understand relevant information; and

(2) Understand the reasonable foreseeable consequences of making a decision (or not making it)



Who can make health care decisions for you?



THE PATIENT

QUESTIONS?

Picking your Attorney

Your Attorney is not a caregiver – they are a decision maker

Who can be an Attorney for Personal Care?

- Anyone 16+

- **CAN'T** be someone who is paid to provide you health care services (unless your spouse, partner, relative)

Who should be your Attorney for Personal Care?

- Someone you feel comfortable talking to about your health
- Someone you trust
- Someone nearby
- Be wary of PSWs, home care workers, people you have not known for a long time

Can I have more than one POA?

YES

- You can appoint more than one person as your Attorney.

- You can also name one or more back-ups (substitutes).

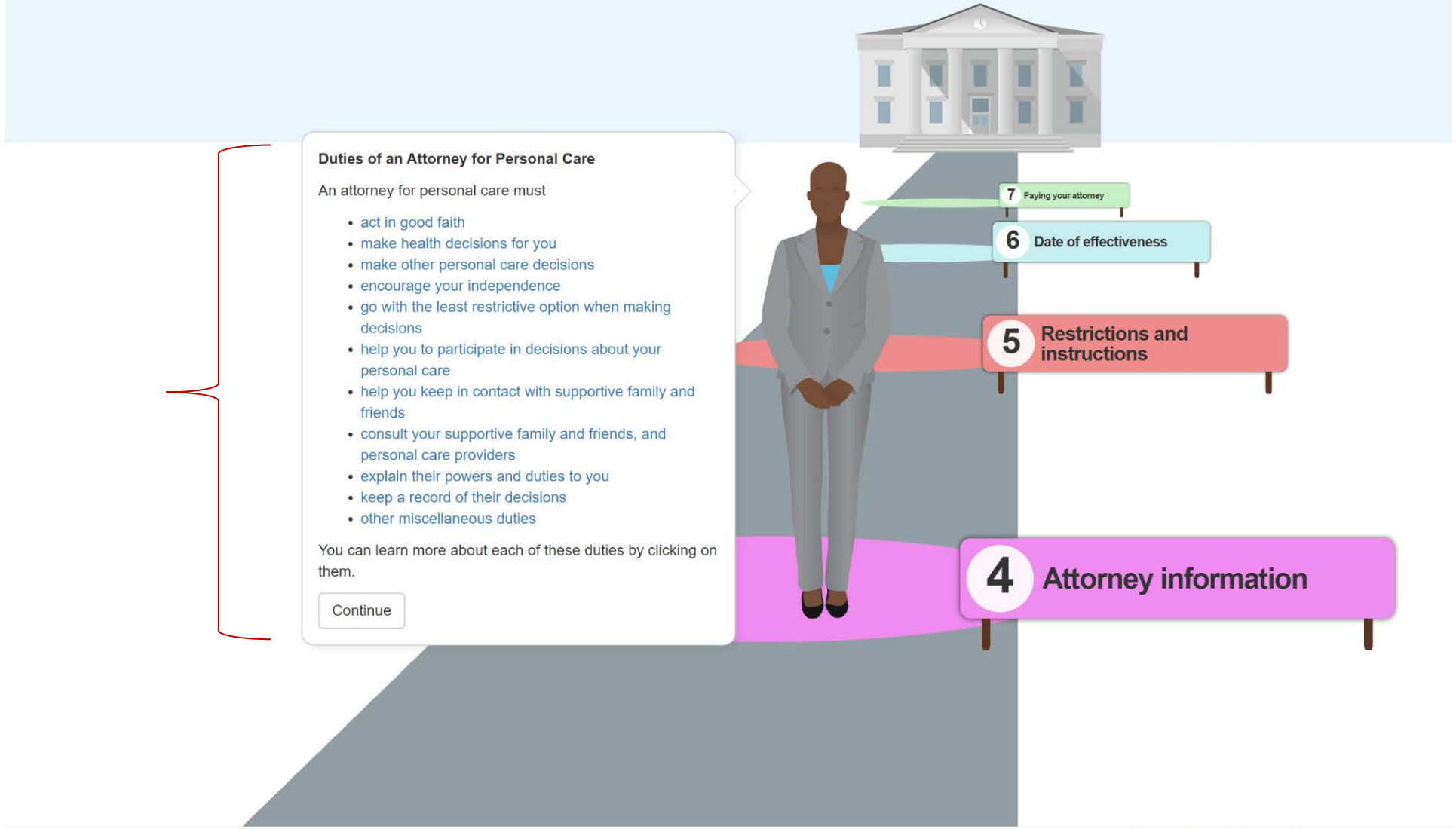
Duties of an Attorney

Make decisions in the best interests of the grantor and follow their last known wishes (however communicated)

Foster	Choose	Encourage
Senior's independence	Least restrictive and intrusive course of action	Participation in decision-making to extent they can

Using Guided Pathways

‹ Back | Next › | MY PROGRESS: Duties of an Attorney for Personal... | SAVE AND EXIT



Duties of an Attorney for Personal Care

An attorney for personal care must

- act in good faith
- make health decisions for you
- make other personal care decisions
- encourage your independence
- go with the least restrictive option when making decisions
- help you to participate in decisions about your personal care
- help you keep in contact with supportive family and friends
- consult your supportive family and friends, and personal care providers
- explain their powers and duties to you
- keep a record of their decisions
- other miscellaneous duties

You can learn more about each of these duties by clicking on them.

Continue

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‹ Back | Next › | MY PROGRESS: You selected the following people as... | SAVE AND EXIT

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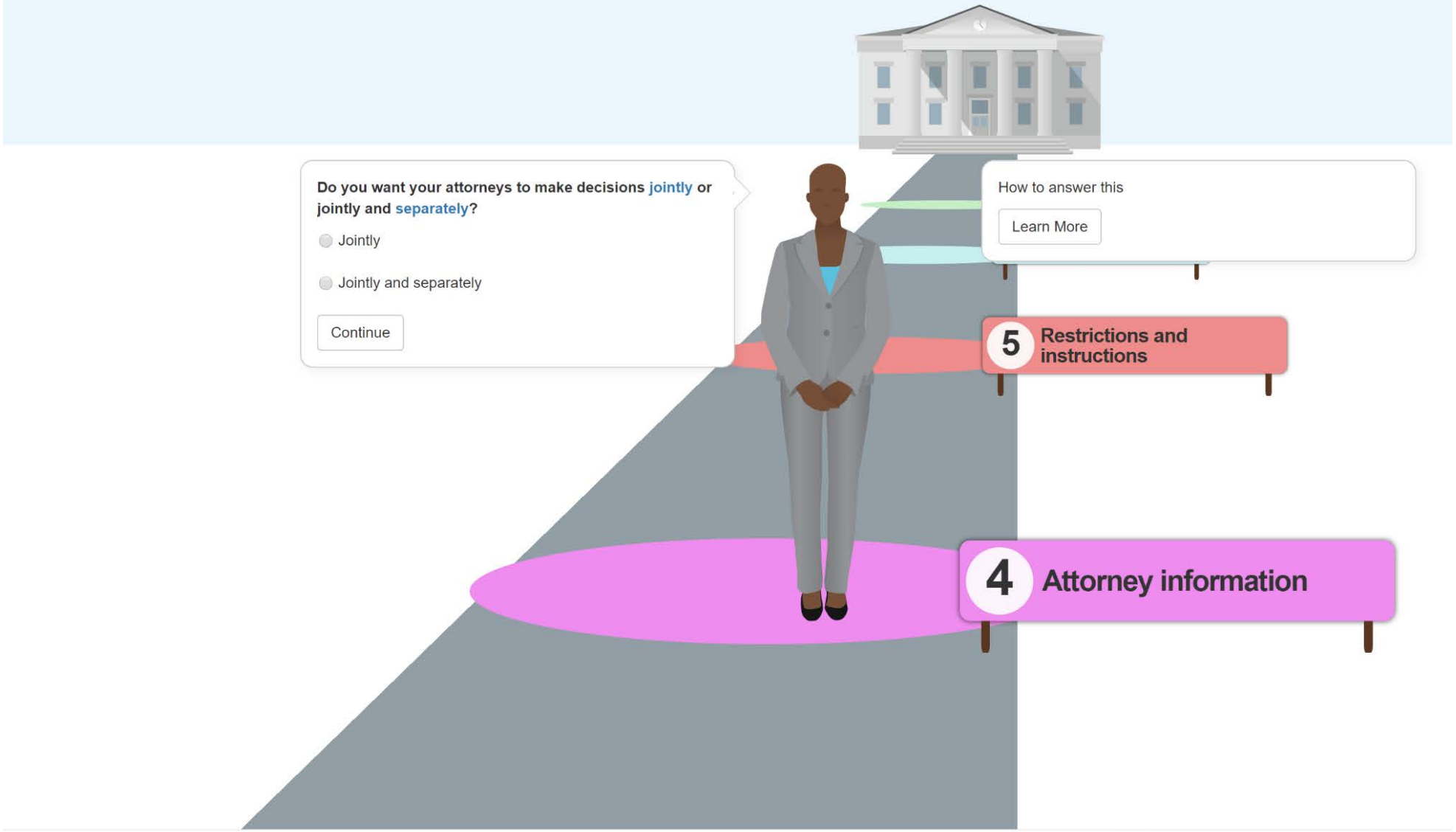
‹ Back | Next › | MY PROGRESS: Do you want your attorneys to make... ▾ | SAVE AND EXIT



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Can my Attorney be compensated for helping me?

Simple Answer: No

- Your attorney for property MAY be compensated
- No provision for compensation of attorney for personal care

Substitute Decisions Act

Section 46(3) A person may not **act** as an attorney under a power of attorney for personal care, unless the person is the grantor's spouse, partner or relative, if the person,

a) provides health care to the grantor for compensation; or

b) provides residential, social, training or support services to the grantor for compensation.

Download

Your interview is now complete.

Interview Details

Interview Title	Power of Attorney	**Date Created**	Sep 26, 2022 01:29 PM
Answer Set Number	ITV-060822	**Interview ID (Version)**	INT-001038(10528)

Downloads

You've now finished the Power of Attorney for Personal Care guided interview. The documents you completed are listed below.
Download and save all of your documents and the instructions document that's at the top of the list. Then, read over the instructions document. It explains how to sign your document and make it official. It also explains what to do with your documents once you've signed them.
You can add and correct the information on your documents once you've downloaded them.

Documents

File #	Downloads	Select
1	Instructions for using a Power of Attorney for Personal Care	
2	Instructions for being an attorney for personal care	
3	Power of Attorney for Personal Care	

Click to Open

Download Selected

Power of Attorney for Personal Care

Jack Oswald White

(Made in accordance with the *Substitute Decisions Act, 1992*)

REVOCATION

I, Jack Oswald White revoke any previous Power of Attorney for Personal Care made by me.

APPOINTMENT

I **APPOINT** the following to be my attorneys for personal care in accordance with the *Substitute Decisions Act, 1992:*

Name: Bruce Gary Wayne
Address: 1007 Mountain Drive, Gotham, Ontario, Canada

Name: Selina Kyle

Name: Richard Grayson
Address: 1007 Mountain Drive, Gotham, Ontario, Canada

HOW ATTORNEYS MAKE DECISIONS

I authorize my attorneys for personal care to act together (JOINTLY) or any or either of them to act alone (SEVERALLY) when making decisions about my personal care for me.

AUTHORITY OF THE ATTORNEYS

I give my attorneys the AUTHORITY to make any personal care decision for me that I am not mentally capable of making for myself, meaning any decisions about my healthcare, housing and shelter, nutrition, clothing, hygiene, and safety. This includes the giving or refusing of consent to any matter to which the *Health Care Consent Act, 1996*, applies, subject to the *Substitute Decisions Act, 1992*, and any wishes, instructions, conditions or restrictions contained in this form.

DISAGREEMENT AMONG ATTORNEYS

If there should be disagreement among my attorneys concerning decisions about my personal care, **other than decisions about my healthcare** to which the *Health Care Consent Act, 1996* applies (such as decisions about treatment, personal assistance services, and admission to a long term care facility), I declare that they shall resolve their disagreement in the following way:

If there is any disagreement amongst my attorneys about a decision related to my personal care **other than decisions about my healthcare**, the decision of a majority of my attorneys shall prevail. Any one or more of my attorneys who acts in good faith and does not form part of any majority shall not be personally liable for the actions or omissions which result from the majority decision. Every document executed by a majority of my attorneys, shall be as valid, effectual and binding as if executed by all of my attorneys, and all parties may rely upon such document for all purposes.

DECISIONS ABOUT HEALTHCARE

I acknowledge that should I become incapable of making a health care decision of any type, my attorneys are acting as my health substitute decision-makers as described in the *Health Care Consent*

Grantor

Attorneys, and how they can make decisions

Power of Attorney for Personal Care

Jack Oswald White

(Made in accordance with the *Substitute Decisions Act, 1992*)

Act, 1996.

Before making health care decisions for me, my attorneys have the right to be given all information they are entitled to by law and need to be able to give an informed consent or refusal to any type of health-care decision for me. Health-care practitioners offering me any treatment or other health-care providers dealing with admission to a long term care home or personal assistance services are required to provide such information to my attorneys and get an informed consent or refusal before providing me with any treatments, admission to a long term care facility, or personal assistance services.

I acknowledge that my attorneys are required to honour any last known wishes about health care that I expressed in writing, orally, or communicated by alternative means and also consider my values and beliefs when making any type of health care decision for me.

If my attorneys know of any wishes I expressed while still capable and after I have executed this Power of Attorney for Personal Care, even if the more current wishes were oral or communicated by other means and are not in written form, my attorneys must honour the more current capable wishes instead of the wishes found in this document.

If my attorneys are not aware of any wishes that are relevant to the health decision that they must make for me, or if a wish is impossible to honour, then I acknowledge that my attorneys and any other health-care decision-maker must make health decisions for me that the attorneys think are in my best interests, taking into consideration my values, beliefs, any wishes expressed by me when not capable as well as my capable but inapplicable wishes. The term "best interests" is defined in s.21(2) of the *Health Care Consent Act, 1996* and also provides guidance to my attorneys as to what is considered in law to be best interests.

Any wishes expressed in this document or expressed orally or communicated by other means are guidance to my attorneys and any other health decision maker when making decision for me. These wishes are not directions to my health practitioners or to anyone else who is seeking consent or refusals of consents from my attorneys about admission to long term care or personal assistance services, except when there is an emergency and my attorneys or any other health-care decision-makers are not immediately available to give or refuse consent on my behalf.

Authority given to the attorneys, wishes, and how they are to make decisions for you.

DIRECTIONS FOR CONTACTING MY ATTORNEYS

My healthcare providers or any other person involved in providing, arranging or making personal care available to me can contact my attorney Selina Kyle in the following way: 262-289-6626

Contact info for Attorney(s)

GRANTOR SIGNATURE

SIGNATURE: _____ DATE: _____

(Sign your name here, in the presence of two witnesses.)

ADDRESS: 123 Chaos Road, Gotham, Ontario, Canada

Power of Attorney for Personal Care

Jack Oswald White

(Made in accordance with the *Substitute Decisions Act, 1992*)

WITNESS SIGNATURE:

[Note: The following people cannot be witnesses: the attorneys or their spouses or partners; the spouse, partner, or child of the person making the document, or someone that the person treats as his or her child; a person whose property is under guardianship or who has a guardian of the person; a person under the age of 18.]

We were in the presence of the person who signed this Power of Attorney for Personal Care when they signed this document. We also signed this Power of Attorney for Personal Care as witnesses in the presence of that person and in the presence of each other.

Witness #1: *Signature:* _____ *Date:* _____

Print Name: _____

Address: _____

Witness #2: *Signature:* _____ *Date:* _____

Print Name: _____

Address: _____

Rule of Thumb → your witnesses shouldn't be your attorneys, your spouse or attorney's spouse, or your children.

Power of Attorney for Personal Care

Contents

Step 1: Check, print, and sign your Power of Attorney 2
Step 2: Tell your family and personal care providers 5
Step 3: Talk to your attorney about your personal care..... 6
Step 4: While you're still mentally capable 8
Step 5: When you're no longer mentally capable 10

Based on the answers you gave in the interview, you've completed a **Power of Attorney for Personal Care**.

There are a few things you have to do before your Power of Attorney is official. These are explained in the steps below.

Getting more information or legal help

If you need legal help or to talk to a lawyer at any point during the process, there's information about this at www.cleo.on.ca/en/publications/power/getting-legal-help. It is a good idea to ask for a lawyer that works with wills and Powers of Attorney. Lawyers often call this "estates law."

Instructions for Being an Attorney for Property

Contents

What's a Power of Attorney for Property?..... 2
When do I start making decisions for the grantor?..... 3
What types of decisions will I have to make?..... 5
Are there rules for making decisions?..... 6
What happens when there's more than one attorney?..... 9
Keeping records..... 10

This document is designed to help you understand your new powers and duties as an attorney for property. It's important to also read the Power of Attorney document, as it might include more specific instructions about these powers and duties.

It's possible that your duties start immediately. It is also possible that you don't have to do anything else right now. Look at the section called "When do I start making decisions for Jane Doe?" for more information about when your duties start.

Getting more information or legal help

If you need legal help or to talk to a lawyer about your role, there's information about this at www.cleo.on.ca/en/publications/power/getting-legal-help. It is a good idea to ask for a lawyer that works with wills and Powers of Attorney. Lawyers often call this "estates law."

Storage & Revisions

How often should I change my POA?

- Your POA does not have an automatic expiry date
- You should review it regularly to make sure it's still what you want
- Check that your attorneys are still willing/able to assist.

Where do I store my POA?

- It needs to be in a safe place, but also accessible to your attorneys when they need it
- Keep track of who you have given a copy to – write down their names!

QUESTIONS

Resources and Supports

CLEO's Steps to Justice

- POA for Property
- POA for Personal Care
- Wills

CLEO's Guided Pathways Tools (also in **French)**

- Making a Power of Attorney
- Make a Simple Will

- **Community Advocacy and Legal Centre (CALC)**
  Tips Sheets (including POA, Financial abuse by a POA and Consider acting as a POA)

- **Trillium Health Partners** Guide to POA for Personal Care

Resources and Supports

Contact your local community legal clinic

Find your local clinic or call 1-800-668-8258

Advocacy North for Elders and Seniors (Northern Ontario only)

Advocacy Centre for the Elderly (ACE) (for low-income seniors)

ARCH Disability Law Centre (specializes in disability rights law)

Pro Bono Ontario hotline: 1-855-255-7256

For support creating **Powers of Attorney** you can call Monday to Friday mornings, from 9:00 AM to 1:00 PM

Provincial Supports and Services

Advocacy Centre for the Elderly
1-855-598-2656
www.advocacycentreelderly.org

Law Society Referral Service
www.lsuc.on.ca/lsrs/

South Asian Legal Clinic
416-487-6371
https://salc.on.ca

Office of the Public Guardian and Trustee
1-800-366-0335
www.attorneygeneral.jus.gov.on.ca

Support for Seniors

- ✓ Support
- ✓ Information
- ✓ Referral

SENIORS SAFETY LINE

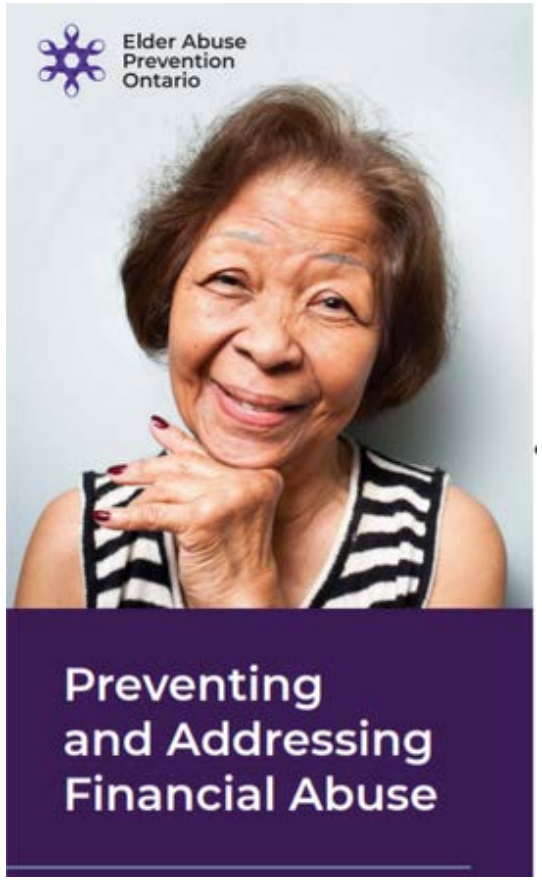
1-866-299-1011

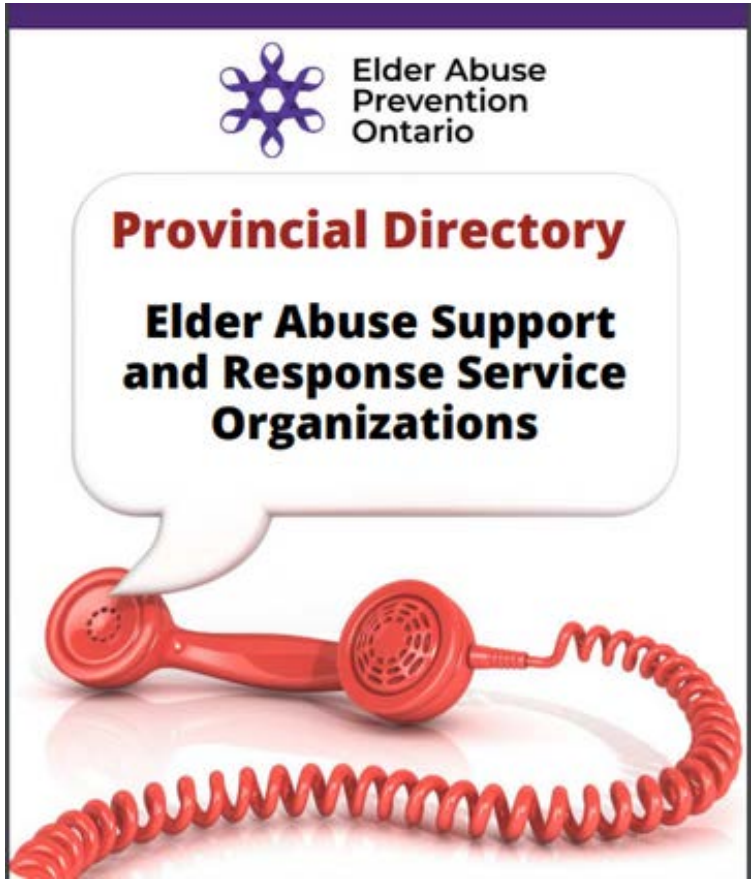
24/7, 365 days of the year

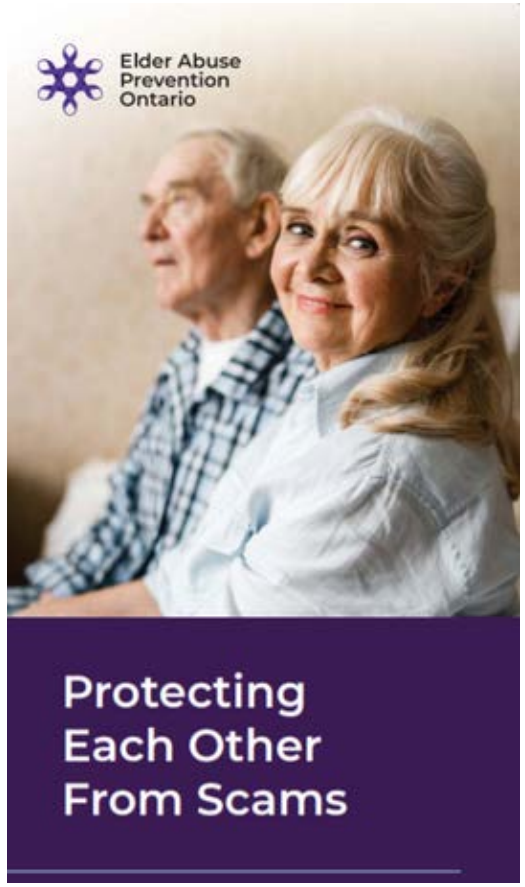
live counsellors, over 200 languages

awhl.org/seniors

EAPO NEW Resources







www.eapon.ca

ANNUAL VIRTUAL CONFERENCE SERIES | 2023

EAPO CONFERENCE 2023

Risk Assessments for Older Adults:
Practical Tools for Early Detection and Intervention of Elder Abuse

SAVE THE DATE

DATE
January 31 , 2023

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Register in Advance

https://pheedloop.com/eapon/site/home/

Register at :

https://eapon.ca/eapo-webinars/

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Steps to Justice – Steps to Justice

Contact me!

Karen Dick at CLEO
karen.dick@cleo.on.ca

Raeann Rideout

Director Strategic Partnerships
Elder Abuse Prevention Ontario

705.927.3114

rrideout@eapon.ca

www.eapon.ca

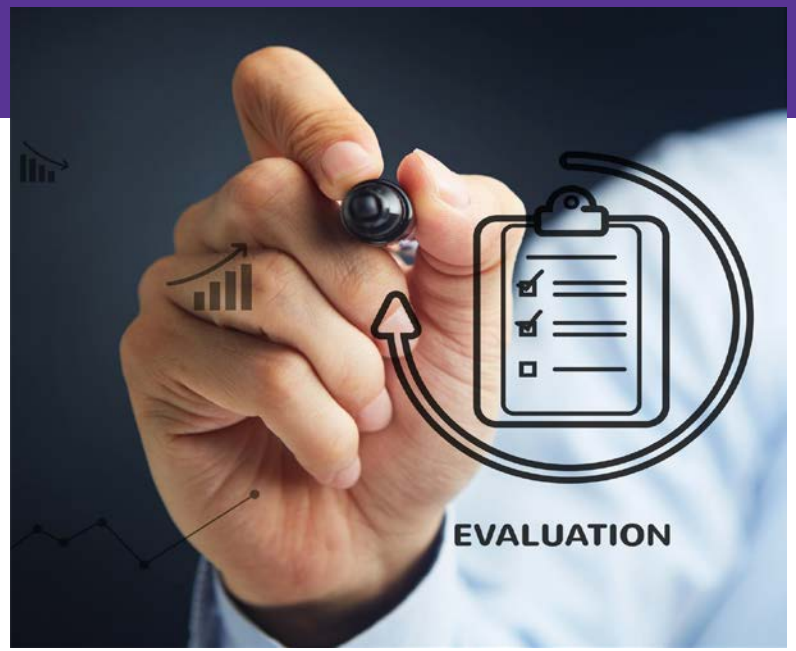
@EAPreventionON

Elder Abuse Prevention Ontario | Prévention de la maltraitance envers les aînés Ontario

Your Feedback is important to us!

WE WOULD APPRECIATE HEARING FROM YOU.

Please take a few minutes to complete our survey!



Elder Abuse Prevention Ontario

SCAN ME

Thank
you!