

la  
à justice  
votre  
portée

# My Mandate in Case of Incapacity



LES PUBLICATIONS DU QUÉBEC

Québec 

# **My Mandate in Case of Incapacity**

---

LES PUBLICATIONS DU QUÉBEC  
1000, route de l'Église, bureau 500, Québec (Québec) G1V 3V9

SALES AND DISTRIBUTION  
Telephone: 418 643-5150, Toll free: 1 800 463-2100  
Fax: 418 643-6177, Toll free: 1 800 561-3479  
Website: [www.publicationsduquebec.gouv.qc.ca](http://www.publicationsduquebec.gouv.qc.ca)

**Bibliothèque et Archives nationales du Québec  
and Library and Archives Canada  
cataloguing in publication**

Main entry under title:

My Mandate in Case of Incapacity

9th ed.

(La justice à votre portée)

Issued also in French under title: Mon mandat en cas d'inaptitude.

ISBN 978-2-551-19846-7

1. Mandate in case of incapacity — Québec (Province).  
2. Capacity and disability — Québec (Province). I. Québec (Province). Curateur public. II. Series: Justice à votre portée.

KEQ233.M6613 2010 346.71401'3 C2009-942412-6

This publication was prepared by  
**Le Curateur public du Québec**

This edition was published by  
**Les Publications du Québec**  
1000, route de l'Église, bureau 500  
Québec (Québec)  
G1V 3V9

Project Coordination  
**Ann Picard**

Graphic designer  
**Lucie Pouliot**

Production  
**Pascal Couture**

Wherever required by the context,  
any word written in the singular form also includes  
the plural, and any word written  
in the masculine form also includes  
the feminine.

Legal Deposit – 2010  
Bibliothèque et Archives nationales du Québec  
Library and Archives Canada  
ISBN 978-2-551-19846-7  
ISBN 978-2-551-19848-1 (PDF)  
© Gouvernement du Québec, 2010

All rights reserved.  
No part of this publication may be reproduced  
in any manner whatsoever or translated  
without the authorization of Les Publications du Québec.

# Table of Contents

---

<b>What is a mandate in case of incapacity?</b>	<b>5</b>
<b>What is the difference between a will, a mandate and a power of attorney?</b>	<b>5</b>
<b>What forms can a mandate take?</b>	<b>6</b>
<b>What is homologation?</b>	<b>7</b>
<b>What to consider when choosing a mandatary?</b>	<b>9</b>
<b>What is the role of the Curateur public with regard to mandataries?</b>	<b>10</b>
<b>What happens if you regain your capacity?</b>	<b>11</b>
<b>What if the mandator dies?</b>	<b>11</b>
<b>What happens if you become incapacitated without having prepared a mandate?</b>	<b>12</b>
<b>Choosing a tutor to a minor</b>	<b>12</b>
<b>How to fill out the form</b>	<b>13</b>
<b>Explanatory notes for the form</b>	<b>14</b>
<b>Contact the Curateur public du Québec</b>	<b>21</b>

---

**S**INCE APRIL 15, 1990, THE *CIVIL CODE OF QUÉBEC* HAS ALLOWED ANY ADULT OF SOUND MIND TO PREPARE A MANDATE IN CASE OF INCAPACITY. IF YOU HAVE NOT YET DRAWN UP A MANDATE BUT ARE THINKING ABOUT DOING SO, THIS BOOKLET WILL GUIDE YOU THROUGH THE PROCESS. IT EXPLAINS THE MAIN FEATURES OF THE MANDATE AND ALSO CONTAINS A MANDATE FORM DESIGNED TO RESPOND TO THE NEEDS OF AS MANY PEOPLE AS POSSIBLE. YOU CAN USE IT AS IS OR AS THE BASIS FOR DRAFTING YOUR OWN MANDATE, ADAPTING IT TO YOUR SITUATION SO THAT IT RESPONDS TO YOUR NEEDS. BEFORE PROCEEDING, BE SURE TO READ THE FOLLOWING INFORMATION.

---

---

**Note**

The text of the law always takes precedence over the information in this booklet.

## What is a mandate in case of incapacity?

A mandate in case of incapacity is a document in which a person, known as a **mandator**, while in full possession of his faculties, appoints another person, known as the **mandatary**, to see to his protection or administer his property or both at once, in the event that illness or an accident deprives him of his faculties, either temporarily or permanently.

Mandators are free to decide on the content of the mandate. For their protection and physical well-being, mandators can include a living will to cover their end-of-life wishes. Likewise, the clauses dealing with the administration of property can be very general or highly detailed, with a list of specific administrative activities, depending on the mandator's situation.

Finally, mandators may even appoint more than one mandatary in their mandate. For example, they may appoint one to take care of their person and another to administer their property. They can also designate a substitute mandatary, in case the principal mandatary refuses to have the mandate homologated, if for some reason this individual is unable to continue to execute the mandate or dies before or during the exercise of their duties. Mandators may also determine a basis of remuneration for the mandatary.

## What is the difference between a will, a mandate and a power of attorney?

A **will**, which contains your wishes about what is to be done with your property, takes effect only after your death. A power of attorney and a mandate in case of incapacity can be used only during your lifetime.

A **power of attorney** authorizes a person to perform certain ordinary administrative tasks (pay bills, withdraw money from a bank account) or other more serious administrative activities. A power of attorney is used for the administration of property only. It may or may not be notarial. If it is not notarial, it can be terminated at any time with no need for any special procedure. It is also terminated if its author is placed

under protective supervision (advisorship to a person of full age, a tutorship or a curatorship) or becomes incapable of supervising the actions of the person to whom power of attorney has been given. The death of the person who has power of attorney also terminates it.

The **mandate in case of incapacity** goes further. It can cover the administration of property and also contain provisions for the protection of the mandator's person. However, to come into force, a mandate must be homologated by the court, which must then have evidence that the mandator has become incapable.

## What forms can a mandate take?

The law provides for two forms of mandate in case of incapacity:

- the mandate **by notarial deed**: a notary prepares the document according to the wishes and needs of the mandator. This mandate is registered with the Chambre des notaires so that it can be located easily should the mandator become incapable;
- the mandate **given in the presence of witnesses (with or without the presence of a lawyer)**: it is signed by the mandator in the presence of two witnesses who have no interest in the document. If the mandator has already signed the mandate, he must acknowledge his signature in the presence of the witnesses. If the mandator is physically unable to sign the document, the law authorizes him to have it signed by a third party according to his instructions. This situation must, of course, be made clear to the witnesses. The document must then be countersigned by the two witnesses who are not the mandataries and have no interest in the mandate. Their signature certifies that the mandator was of sound mind when he signed the mandate. Mandators do not have to disclose the contents of their mandate to witnesses. The law simply requires that mandators state the nature of the document to be signed (by saying for example, "this is my mandate in case of incapacity").

People who have given a mandate in the presence of witnesses should store the original in a safe place, inform the mandatary and give this individual a copy. If an attorney prepares the mandate, it will be registered with the Barreau du Québec and be easily found if the mandator becomes incapable.

However, whether your mandate is notarial or given in the presence of witnesses, it is always advisable to tell your family and those close to you the name of your mandatary. This is a wise precaution because it enables them to act at once should you become incapable of looking after yourself as the result of an illness or accident.

Whatever form it takes, the mandate in case of incapacity comes into effect only after it has been **homologated or approved** by the court, in other words, examined by a clerk or judge of the Superior Court in the legal district where the mandator lives or has legal residence.

## What is homologation?

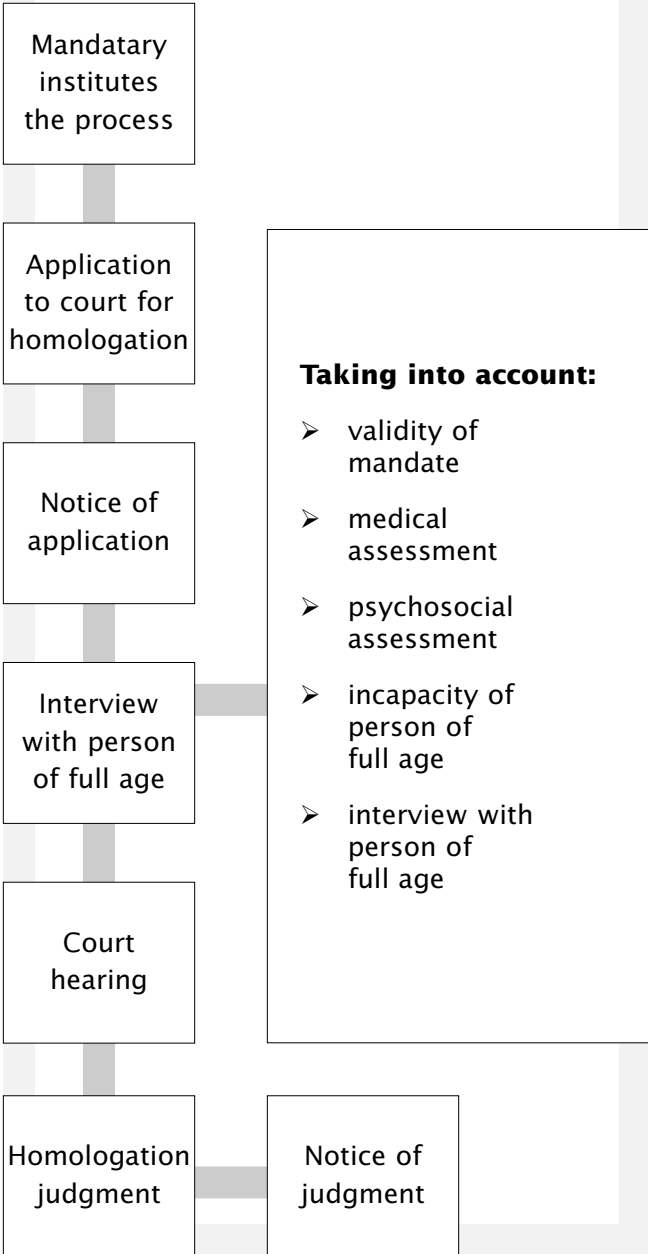
Homologation is a legal procedure whereby the court establishes the incapacity of the mandator, verifies the existence of the mandate and its validity if given in the presence of witnesses. Only the mandatary can apply to the court in the mandator's legal district for homologation of this document. The application must be accompanied by a copy of the mandate, along with medical and psychosocial assessments establishing the mandator's incapacity. These assessments are made by health and social services professionals associated with an establishment in the health care network (CLSC, hospital, residential and long-term care facility, rehabilitation centre) or in private practice. As shown in the table on page 8, the final stage of the procedure is the judgment giving the mandate force of law, that is, giving the mandatary the right to exercise the powers invested in him.

Homologation of a mandate in case of incapacity is a formal procedure that takes time. The mandatary may use the services of legal counsel (notary or attorney).



## Homologation of a mandate

### Regular procedure



In addition, there is now a process in which the notary takes charge of handling the procedure involving a person who needs protective supervision. Notaries must, however, have the conclusions of their minutes approved by the clerk or by the court. Only certain notaries certified by the Chambre des notaires are allowed to apply this process. Unless the court orders otherwise, the costs incurred to homologate the mandate are the responsibility of the mandator.

## **What to consider when choosing a mandatary?**

---

Because of the responsibilities that a mandatary may have to take on, it is useful to inform this person of your decision. You can then make sure that they have understood your needs before you officially designate them. You can then discuss the powers you wish to give them over your person and property in order to be sure that they will execute the mandate as you wish. Your choice of mandatary and substitute mandatary, if you appoint one, is most important; in either case, it should be a person in whom you have full confidence and with whom you have developed close ties. Freedom of choice is one of the major advantages of the mandate.

You may appoint more than one mandatary. The enclosed form allows you to enter the name of one person to protect your person and another (or several others, depending on the nature of the property to be managed) to manage your property. Note that a legal entity, such as a trust company, can be appointed, but only to administer your property. It is recommended that you also designate a substitute mandatary in case the mandatary you initially appointed cannot or no longer wants to perform these duties.

You can also specifically authorize a mandatary to property to act in your place as liquidator if you are given this office after becoming incapable. Finally, if your personal or financial situation is complicated, we recommend you consult a notary or an attorney about preparing and drafting your mandate.

## What is the role of the Curateur public with regard to mandataries?

The Curateur public keeps a **register of homologated mandates**. The information entered in this register includes the first and last names of the mandator and mandatary and the date and number of the homologation judgment.

The Curateur public also has the **power to intervene** in any legal procedure connected with the homologation or revocation of a mandate. For example, it can contest the evidence of the mandator's incapacity presented in the homologation process. In the case of revocation, it can present reasons that it considers justify termination of the mandate in favour of protective supervision.

In addition, the Curateur public has **power of inquiry** over mandataries. For example, if informed that a mandatary is negligent or abusive or has failed to respect the terms of the mandate, the Curateur public can investigate the situation upon receipt of a complaint. If the complaint is founded, the Curateur public can meet with the mandatary to ask for the situation to be corrected or to obtain an undertaking to do so. If the mandatary persists in being remiss and refuses to remedy the situation, the Curateur public can remove the mandatary from office by applying to the Superior Court. In fact, any interested party can institute this procedure.

However, the Curateur public cannot be designated as the mandatary or the person to whom the mandatary must report periodically, as the law does not specifically authorize it to assume these duties.

## **What happens if you regain your capacity?**

---

Needless to say, if you regain your health and faculties, you can personally take the steps to terminate the mandate. Your mandatary can also do this, as can any other interested party. The procedure can be instituted by a motion.

Your mandate can also be revoked on the initiative of the director general of a health and social services establishment. The law authorizes this individual to mention, in the report containing medical and psychosocial assessments, that you are once again capable of looking after yourself and no longer need to be represented by a mandatary.

This report is sent to the clerk of the court. If it is not contested by the people notified by the clerk of the court within the 30 days following filing of the report, your mandate will be automatically revoked. The clerk of the court gives notice in writing of the revocation and gives copies to you, your mandatary and the Curateur public. The mandatary must then account to you for his management.

## **What if the mandator dies?**

---

The death of the mandator obviously terminates the mandate. If this happens, the mandatary's report is made to the mandator's heirs. If the mandatary dies during the mandate, his heirs have to report for him on his management to the substitute mandatary or the legal representative (tutor or curator) appointed by the court following the institution of protective supervision, when there is no substitute mandatary.

## What happens if you become incapacitated without having prepared a mandate?

Once incapable, a person is no longer able to make a mandate. However, the law has provisions for the protection and representation of persons of full age who become incapacitated without having prepared a mandate in case of incapacity and who need to be protected. These include domestic and judicial mandates, which apply to spouses. Certain laws, such as *An Act respecting the Quebec Pension Plan* and the *Automobile Insurance Act*, allow an organization paying a pension or indemnity to designate a person other than the beneficiary to manage the sums paid.

Finally, there are three forms of protective supervision. From the most limited to the most inclusive, they are: **advisorship to a person of full age**, **tutorship** to the person, the property, or both, and **curatorship**, which covers both person and property. An advisorship to a person of full age is an essentially private type of supervision that can only be conferred on the Curateur public under exceptional circumstances and deals strictly with assisting in the administration of property. Tutorships and curatorships can be entrusted to the Curateur public if there is no one in the incapacitated adult's immediate circle to assume the role of tutor or curator.

## Choosing a tutor to a minor

If, at the time of the homologation of your mandate, one of your children is a minor (younger than 18), a tutor should be appointed. You can designate this person to assume the office of tutor to a minor now but this designation will take effect only if you are the last (as father or mother) to assume the duties of legal tutorship.

If you have more than one minor child, you can choose the same tutor for all children concerned or designate several different tutors by indicating which tutor will be responsible for each child concerned.

However, please note that in these circumstances, each child can have only one tutor.

## **How to fill out the form**

---

We have provided a form allowing you to prepare your mandate in case of incapacity. You will see that it contains detailed information about the mandator's wishes regarding the protection of his person and general well-being. The clauses regarding the administration of property are especially suited to people whose property, whatever its value, is simple to administer. If your personal and financial situation is complicated and requires special wishes to be expressed, it is preferable that you consult a notary or attorney.

You should review your mandate periodically. After all, it should respond to your needs. The rules of form imposed by the law must be respected, which means if you change the mandate, the whole process has to be repeated as if you were giving a mandate for the first time. Don't forget that the new mandate revokes all prior mandates.

The new mandate must be signed by the mandator (or, at his request, by a third party, as described earlier) in the presence of two witnesses, who must also sign the document attesting to the mandator's capacity. If a third party has drawn up the mandate on behalf of the mandator and has also signed for him, the witnesses must be formally notified of this.

The explanatory notes that follow present information that will help you complete the "My Mandate in Case of Incapacity" form.

# Explanatory notes for the form

***When you choose to cross out all or part of a clause, place your initials in the left margin to clearly confirm your intention.***

It is possible that you, the mandator, have already signed your mandate or had it signed by a third party in your presence following your instructions, but without witnesses. In these cases, you must authenticate your signature or that of the third party who signed for you because you were unable to sign before witnesses.

## 1 SINGLE MANDATARY

The mandatory you choose is a person you trust, to whom you give responsibilities and powers for the protection of your person—care, support, etc.—and the administration of your property. Be sure that this person will be able to assume this task when you become incapable. For example, a spouse of the same age may no longer be able to take care of you, manage your assets or make decisions about entrusting these tasks to third parties.

The **substitute mandatory** is the person who will take over as mandatory in case your principal mandatory cannot execute the mandate.

## 2 MULTIPLE MANDATARIES

Option 2 lets you appoint several mandataries: one to protect your person and one or more to manage your property. In the latter case, you can choose a trust company or other institution authorized by law. It is recommended that you inform it of your choice, find out its conditions (management fees, for example) and obtain its agreement.

The **substitute mandatory** is the person who will take over as mandatory in case your principal mandatory cannot execute the mandate. As you have chosen several mandataries, you can designate one substitute for each of them. By checking the last box, you allow the last remaining mandatory to continue to act: he will then act to protect your person and administer your property.

### 3 INVENTORY AND REPORT

Although optional, these clauses are a wise precaution and will facilitate the task of the mandatory when preparing the final account at the end of his administration.

When the person receiving the management report is informed of the mandatory's administration, they make sure that the decisions concerning both the protection of the person and the management of the person's property have been made in the mandator's interest.

If this individual notices that the mandatory has been negligent in the performance of their duties, they can take the appropriate steps to correct the situation.

Ideally, the person asked to receive reports from your mandatory will not be the designated substitute who could be asked to act as the principal mandatory. If this is unavoidable, it is important to designate a second substitute to receive the reports and ensure continuous supervision.

The **inventory** is a sort of a description of the mandator's assets at the time when the mandatory responsible for administering the property commences their duties. An inventory is absolutely necessary if a verification of the mandatory's management is required at a later date. It should include an accurate list and description of all the property to be managed, except for property and personal effects worth less than \$100, which can be described generally (e.g., a set of 10 dresses, 5 suits, kitchen utensils, an envelope of documents and pictures, etc.).



The **report** concerning your protection and the administration of your property may be made to a person close to you or anyone able to assess your mandatary's management and take steps to improve it, if needed. Ideally, the person to whom the mandatary reports regarding his management will assist in making the inventory of the mandator's property that the mandatary should make when commencing his duties.

#### **4 RESPONSIBILITIES OF THE MANDATARY CONCERNING THE PROTECTION OF MY PERSON**

These clauses are not obligatory: you can cross out some or all of the section you do not want included in your mandate.

Remember that the mandatary to the person must be a physical person—a family member, friend or someone else—whose role will be to ensure the protection of your person and your moral and material welfare and to consent to certain care on your behalf. If you do not authorize your mandatary to give consent to care (4.3), consent will be given by your spouse or another family member or friend.

#### **5 RESPONSIBILITIES OF THE MANDATARY CONCERNING THE ADMINISTRATION OF MY PROPERTY**

It is important to be clear about the powers you give your mandatary.

By giving him the powers of **simple administration**, your mandatary will require authorizations to perform certain significant actions. He will have to manage your day-to-day business and preserve and maintain your moveable and immovable property. He will not be able to sell assets without your authorization if you are able to give it, and if not, without the authorization of the court, unless it involves assets that are perishable or likely to depreciate rapidly. If he makes investments in your name, they must be "presumed sound," which means they must comply with the definition given by the *Civil Code of Québec* (several types of bonds, certificates of deposit, etc.).

The mandatary who is given the powers of **full administration** has greater flexibility. In addition to preserving the assets of the mandatary, if possible, he must ensure that they grow and increase in value. He may also borrow or take out a mortgage in your name, or even sell your property without prior authorization.

The mandatary's administration ends when the mandate is revoked or the mandator dies. As appropriate, the mandatary must report on his overall management to the mandator who has regained his capacity, the heirs of the deceased mandator or the mandatary or the legal representative (tutor or curator) who replaces him in his duties.

## **6 ACCESS TO RECORDS**

This clause is not obligatory. You can cross it out.

## **7 REMUNERATION**

The provisions of the *Civil Code of Québec* stipulate that anyone who administers property for someone else is entitled to be reimbursed for expenses incurred in the execution of their duties. They also state that in principle, the execution of the mandate is done free of charge unless the mandator wants to offer remuneration to the mandatary.

You can therefore make provisions for the mandatary responsible for taking care of your person and/or the one responsible for managing your property to receive remuneration. Remuneration can be calculated at an hourly rate for the hours spent on your care or administration, in addition to reimbursement for their expenses. It is also possible for the remuneration of the mandatary to property to be calculated based on a percentage of the value of the assets under management. Obviously, if you designate a trust company or other legal entity, the applicable management fees will be billed to your assets.

## 8 PARTIAL INCAPACITY

These clauses are not obligatory: you can choose one of the two options by checking the one that you want included in your mandate or simply cross them out if none is applicable.

If none of the options is checked off, the court can refuse to homologate the mandate.

## 9 OTHER CLAUSES

These clauses are not obligatory: you can cross out some or all of the section you do not want included in your mandate.

## 10 SIGNATURE OF THE MANDATOR AND DECLARATION OF WITNESSES

Mandators must inform the witnesses of the nature of the documents being submitted to them but they do not have to disclose their contents.

The role of the witnesses is two-fold and very important. By signing in the mandator's presence, they attest that the document has been **signed by the mandator** or according to the mandator's instructions and that the mandator was capable of doing so. This attestation may be provided in an *affidavit* (declaration under oath) of one of the witnesses. This *affidavit* may be used as evidence when the mandate is being homologated.

In some cases, a witness may find it difficult to judge the mandator's capacity to prepare his mandate. If there are doubts about whether he is in full possession of his faculties, the mandatory appointed in the document should, before signing, consult specialists in the health network so that the mandator receives a conclusive assessment.

A witness may be deemed to "have an interest" in the mandate if he is designated mandatory or the substitute mandatory or if he is the one to whom the mandatory must report. A witness may also be a person specified in clause 9 on page 7 of 8.

## **11 ACCEPTANCE BY THE MANDATARY**

When the incapacity occurs, designated mandataries are responsible for having the mandate homologated, and in doing so, their acceptance of the office is assumed. However, should they refuse or be incapacitated, the substitute, if any, may act in their place.

It is recommended that you give a copy of the mandate to the designated mandatory or at least inform this person that a mandate has been prepared and where it can be found.

You can also obtain the person's immediate acceptance and commitment to represent you after you become incapable.

Please note that for mandates prepared by notaries or attorneys that are listed in the *Registre des dispositions testamentaires et des mandats du Québec*, friends or family can perform searches to locate any registered mandate.

### **THE CURATEUR PUBLIC MUST BE NOTIFIED**

- Upon the death of the mandator, the mandatory informs the Curateur public du Québec.
- Upon the death of the mandatory, the liquidator of the succession reports the death to the Curateur public du Québec.

## **REMINDER**

If you need more space for any section of the form, you can add pages by numbering them so that they refer to the appropriate section.

**PLEASE INITIAL THE MARGIN WHENEVER YOU CHANGE A PRINTED TEXT.**

## **NOTE**

The text of the law always takes precedence over the information in this booklet.

# Contact the Curateur public du Québec

---

## **By phone**

Monday to Friday  
8:30 a.m. to 4:30 p.m.  
(Wednesdays open at 10:00 a.m.)

**514 873-4074**

**1 800 363-9020**

## **By e-mail**

**[www.curateur.gouv.qc.ca](http://www.curateur.gouv.qc.ca)**

*Contact us* page of our website

## **By regular mail**

Le Curateur public du Québec  
600, boulevard René Lévesque Ouest  
Montréal (Québec) H3B 4W9

## **In the same collection**

*My Will*

---

*Cohabitation Contract*

---

*Application for the Probate of a Will*

---

*Joint Application for the Determination  
of Custody Access and Child Support*

---

*Joint Application for Review  
of Accessory Measures*

---

*Joint Application for Divorce  
on Draft Agreement*

---

## Form

**My Mandate in Case of Incapacity**

## PLEASE PRINT

Wherever required by the context, any word written in the singular form also includes the plural, and any word written in the masculine form also includes the feminine.

**IMPORTANT**

**Please read the explanatory notes on pages 14 through 19 of the booklet carefully. Each section of the form has a corresponding explanatory note.**

If you would like to designate **ONLY ONE MANDATARY** to care for your person and administer your property, **fill out section 1**, then go directly to section 3.

If you would like to designate **SEVERAL MANDATARIES** to care for your person and administer your property together or one to care for your person and the other to administer your property, **fill out section 2**, then go to section 3.

Please note that the administrator of your property can be someone in your family, a friend or someone else you trust, or even a company, such as a trust company or other institution authorized by law to act in this capacity.

If you need more space for any section of the form, you can add pages by numbering them so that they refer to the appropriate section.

**Please initial the margin whenever you change a printed text.**

**1 SINGLE MANDATARY** (See note 1)

This mandate cancels all previous mandates in case of incapacity and, once homologated, it terminates any power of attorney I have granted for the administration of my property.

I, the undersigned, \_\_\_\_\_, born on \_\_\_\_\_ DAY MONTH YEAR

NAME OF MANDATOR

hereby designate \_\_\_\_\_

NAME OF MANDATARY

ADDRESS

**to act as mandatory responsible for protecting my person and administering my property.**

Indicate your relationship to this person: \_\_\_\_\_

**1.1 Substitute mandatory**

If my mandatory is unable to act for whatever reason,

I designate \_\_\_\_\_

NAME OF MANDATARY

ADDRESS

**to act as substitute mandatory.**

Indicate your relationship to this person: \_\_\_\_\_

Initials of the mandator and witnesses \_\_\_\_\_

(Continued on back)

**2 MULTIPLE MANDATARIES** (See note 2)

This mandate cancels all previous mandates in case of incapacity and, once homologated, it terminates any power of attorney I have granted for the administration of my property.

I, the undersigned, \_\_\_\_\_, born on \_\_\_\_\_ DAY MONTH YEAR

NAME OF MANDATOR

hereby designate \_\_\_\_\_

NAME OF MANDATARY

ADDRESS

**to act as mandatory responsible for protecting my person.**

Indicate your relationship to this person: \_\_\_\_\_

I also designate \_\_\_\_\_

NAME OF MANDATARY

ADDRESS

and (where relevant) \_\_\_\_\_

NAME OF MANDATARY

ADDRESS

**to act as mandatory responsible for the administration of my property.**

Indicate your relationship to this person: \_\_\_\_\_

When several mandataries act jointly, decisions must be made:

unanimously **OR**  by majority

**2.1 Substitute mandataries**

If my mandatory is unable to act for whatever reason,

I also designate \_\_\_\_\_

NAME OF SUBSTITUTE

ADDRESS

**to act as substitute mandatory responsible for protecting my person.**

Indicate your relationship to this person: \_\_\_\_\_

I also designate \_\_\_\_\_

NAME OF SUBSTITUTE

ADDRESS

**to act as substitute mandatory responsible for administering my property.**

Indicate your relationship to this person: \_\_\_\_\_

*Check if desired:*

In case of the resignation, death or legal incapacity of any of my mandataries mentioned above, the remaining mandatory will act as if he alone had been designated.

Initials of the mandator and witnesses \_\_\_\_\_

(Continued on back)



**3 INVENTORY AND REPORT** (See note 3)

**3.1 Inventory**

At the beginning of his functions, the mandatary responsible for the administration of my property should complete a summary inventory of all my moveable and immoveable property. This procedure must be performed in the presence of two witnesses, ideally including the person for whom the management report will be prepared, as appropriate.

**3.2 Report**

My mandatary **OR**  Only his substitute **OR**  My mandatary and his substitute

must prepare an annual report of the actions taken with respect to my person and the administration of my property and submit it to \_\_\_\_\_

NAME

ADDRESS

or, failing that person, to \_\_\_\_\_

NAME

ADDRESS

**4 RESPONSIBILITIES OF THE MANDATARY CONCERNING THE PROTECTION OF MY PERSON**

(See note 4)

**4.1 General**

My mandatary is responsible for ensuring my moral and material welfare. In this sense, he is authorized to make any decisions and take any steps to meet my daily needs while respecting my wishes, my personal and religious values, my habits, my standard of living and degree of autonomy.

Wherever I live, my mandatary must ensure that I receive the care and services required by my health status.

As a general rule, I would like my mandatary to be "actively" present to the extent possible (regular visits, moral support, etc.).

**4.2 Housing**

If possible, I would like to live at home. However, if my health requires me to live in a setting that is safer and better adapted to my needs, my mandatary will decide according to the circumstances, while taking into account the following wishes:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Initials of the mandator and witnesses \_\_\_\_\_

(Continued on back)

**4.3 Consent to care**

If I am unable to consent to the care required by my health status or to refuse it, my mandatary shall do so on my behalf. In this respect, he shall act in my interest alone and take into account the wishes I have expressed to the extent possible and as provided by law. Should he be asked to consent to care, he shall use all means necessary to make a well-informed decision, as discussed with the attending physician and healthcare team. If he consents to the care suggested, it is with the conviction that it will be beneficial, despite its effects, appropriate in the context and the risks involved do not seem disproportionate given the beneficial effect targeted.

Yes

**OR**

No: I would like \_\_\_\_\_ to consent to this care.  
NAME OF PERSON

Indicate your relationship to this person: \_\_\_\_\_

**4.4 Clinical trials**

I authorize my mandatary, if he feels that it is appropriate and complies with the applicable provisions of the *Civil Code of Québec*, to allow my participation in a research project or trial.

Yes **OR**  No

**4.5 Last wishes**

In all decisions concerning care required at the end of my life, my mandatary must consider:

*Check the desired options:*

- my opposition to any disproportionate diagnostic method or therapy that needlessly worsens or prolongs my suffering and death;
- my wish to die with dignity, with the required supportive care and comfort and proper medication to relieve my suffering, even though it may indirectly accelerate my death;
- other details or wishes:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Initials of the mandator and witnesses \_\_\_\_\_

**5 RESPONSIBILITIES OF THE MANDATARY CONCERNING THE ADMINISTRATION OF MY PROPERTY** (See note 5)

I grant my mandatary the power to administer my moveable and immoveable property according to the rules of

**simple administration** in accordance with the *Civil Code of Québec*

**OR**

**full administration** in accordance with the *Civil Code of Québec*.

*Check the desired options:*

I would not like the following moveable and immoveable property to be sold, unless necessary:

\_\_\_\_\_

\_\_\_\_\_

I specifically authorize my mandatary to property \_\_\_\_\_  
NAME OF MANDATARY  
 to act in my place as liquidator of a succession if these duties should be given to me.

**6 ACCESS TO RECORDS** (See note 6)

In the exercise of his functions, it is understood, as provided by law, that my mandatary is authorized to consult my medical, personal and other records concerning my person and my property that may be useful to him.

**7 REMUNERATION** (See note 7)

My mandatary may reimburse himself out of my assets for all expenses that are helpful or necessary to execute his duties, including fees for the homologation of the mandate.

My mandatary or his substitute will act free of charge.

**OR**

I would like \_\_\_\_\_  
NAME OF MANDATARY TO THE PERSON

**OR**

I would like \_\_\_\_\_  
NAME OF MANDATARY TO THE PROPERTY

**OR**

I would like \_\_\_\_\_  
NAME OF MANDATARY TO THE PERSON

**AND**

\_\_\_\_\_ NAME OF MANDATARY TO THE PROPERTY

to be remunerated from my assets according to the following terms and conditions: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Initials of the mandator and witnesses \_\_\_\_\_

(Continued on back)

**8 PARTIAL INCAPACITY** (See note 8)

If my incapacity is only partial:

I require this mandate to be homologated with all powers specified in it.

I am fully aware that should I become partially incapable, some of the powers specified in this mandate could limit my rights and my autonomy. Nevertheless, I want this mandate to be homologated.

I consider myself the person in the best position to know my interests. I believe that my mandatary will act fully to respect my rights and protect my autonomy, even if he holds the powers of full administration.

**OR**

I prefer that my residual capacity be taken into account in my mandate.

If I am only unable to manage my property, the mandate concerning the administration of my property must be homologated.

My mandatary will then act with powers of  simple administration **OR**  full administration and I will retain full autonomy in decisions about my person.

Initials of the mandator and witnesses \_\_\_\_\_

(Continued on back)

**9 VARIOUS CLAUSES** (See note 9)

*Check the desired options:*

- I would like my mandatory to use a portion of the revenues from my assets, and even some capital if necessary, in order to assume my financial obligations to my family in the same manner that I have assumed them until the homologation of this mandate. However, if these revenues have decreased considerably as a result of my incapacity, my mandatory will assume these obligations to the extent of my means.
- For any decision concerning my person or the administration of my property, I want to be consulted, if possible, so that I can give my opinion. If my mandatory deems it appropriate, he will consult the most significant persons among my friends and family, who are:

_____	_____
NAME	NAME
_____	_____
NAME	NAME

However, it is understood that my mandatory is entitled to make the final decision.

- If, at the time of the homologation of this mandate, one or more of my children are minors and must be represented, I appoint:

\_\_\_\_\_

NAME

to act as tutor.

- The mandatory to my person must have a new medical and psychosocial assessment conducted every five (5) years after the homologation of this mandate in order to reassess my condition. After receiving these assessments, this person must make all decisions and take all necessary steps to protect my rights and ensure that my autonomy is respected.
- If I regain my capacity again, my mandatory shall cease to represent me and begin procedures to terminate this mandate, unless I indicate otherwise.

**10 SIGNATURE OF THE MANDATOR AND DECLARATION OF THE WITNESSES** (See note 10)

\_\_\_\_\_

SIGNATURE OF THE MANDATOR

**10.1 Declaration of witnesses**

We, the undersigned, \_\_\_\_\_ and \_\_\_\_\_

NAME

NAME

have both witnessed the signature of \_\_\_\_\_

NAME OF MANDATOR

We also declare that this person was fully capable of preparing this mandate and that we have no personal interest in it.

In witness whereof, we have signed at \_\_\_\_\_ this \_\_\_\_\_

PLACE

DAY

MONTH

YEAR

\_\_\_\_\_

SIGNATURE OF WITNESS

\_\_\_\_\_

SIGNATURE OF WITNESS

\_\_\_\_\_

NAME OF WITNESS

\_\_\_\_\_

NAME OF WITNESS

\_\_\_\_\_

FULL ADDRESS

\_\_\_\_\_

FULL ADDRESS

\_\_\_\_\_

TELEPHONE NO.

\_\_\_\_\_

TELEPHONE NO.

Initials of the mandator and witnesses \_\_\_\_\_

(Continued on back)

**11 ACCEPTANCE BY THE MANDATARY** (See note 11)

The request to homologate this mandate by my mandatory will be deemed his acceptance of this office.

**OR**

The mandatory hereby designated in this mandate:

NAME OF MANDATARY	OCCUPATION
FULL ADDRESS	

declares the following:

1. I \_\_\_\_\_ acknowledge that I have read this mandate and agree to be appointed mandatory to the property or to the person or to both.

2. I agree, in case of the incapacity of \_\_\_\_\_, to take the measures required by law to homologate this mandate in case of incapacity and thereafter assume the powers and obligations of my office as mandatory.

NAME OF MANDATOR

3. If at such a time I cannot assume the office of mandatory, the substitute mandatory shall carry on in my place.

4. I agree to fulfill my duties in the interest of \_\_\_\_\_ and to ensure the protection of this person's rights and autonomy.

NAME OF MANDATOR

\_\_\_\_\_  
SIGNATURE OF ACCEPTING MANDATARY

**THE CURATEUR PUBLIC MUST BE NOTIFIED**

- Upon the death of the mandator, the mandatory informs the Curateur public du Québec.
- Upon the death of the mandatory, the liquidator of the succession reports the death to the Curateur public du Québec.

**Please initial the margin whenever you change a printed text.**

Initials of the mandator and witnesses \_\_\_\_\_

***My mandate in case of incapacity* is for all adults who are of sound mind. It allows them to appoint a mandatary to ensure the protection of their person and the administration of their property in the event that illness or an accident deprives them of their faculties. It contains essential information on the choice of mandatary, the various clauses that may be included in the mandate and its homologation.**

**This new edition features a completely revised form, designed to offer mandators a greater range of elements contributing to their protection.**

**Curateur public**  
**Québec** 

ISBN 978-2-551-19846-7



9 782551 198467

Printed in Québec, Canada

\$ 9.95