



Elder Abuse
Prevention
Ontario



**Powers of Attorney:
Advance Directions for
Care and Financial Decisions**
(who decides and how decisions are made)

Monday, October 16th

1:00 PM - 2:00 PM (EST)



Speaker:

Melanie de Wit, JD MPH, Chief Legal Officer, Unity Health

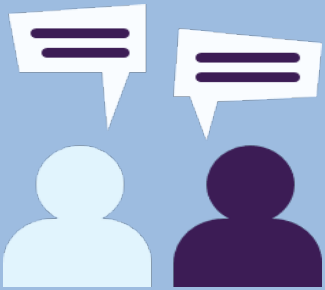


Ontario

A smudge stick, made of dried herbs and tied with black and white twine, is burning in a brass bowl. The bowl is placed on a green wooden surface. The scene is decorated with various natural elements: a large white crystal in the top left, a green chrysanthemum flower, green cedar branches, yellow pom-pom flowers, and a cluster of clear crystals in the bottom right. Wisps of white smoke rise from the burning smudge stick.

LAND ACKNOWLEDGEMENT

WEBINAR HOUSEKEEPING



Chat Box

Post comments during the session.



Communication

All attendees will be muted during the webinar.



Question Box

Type your questions in **Question/ Answer box**.

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

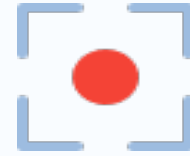
WEBINAR HOUSEKEEPING



Evaluation

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

- Pop-up notice with link to survey
- Follow-up email with survey link



Recording

**This webinar will
RECORDED and posted on
EAPO's website by
Wednesday.**

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.

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)



STOP ABUSE –

SIMPLY PUT, WE ALL HAVE A ROLE TO PLAY

RESTORE RESPECT

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.



Co-ordination of
Community Services

Training for
Front-Line Staff

Public Education
and Awareness

3 Pillars of the Strategy

Speaker

Melanie has been a lawyer working on behalf of hospitals and healthcare providers for 15 years, currently as Chief Legal Officer at Unity Health Toronto.

She received her Juris Doctor at the University of Toronto and completed a Masters in Public Health at John Hopkins University. Currently the Chair of the Toronto Academic Health Sciences Network Legal table, Melanie also teaches health law and risk management within the health administration and patient safety graduate programs of the Institute for Health Policy, Management and Evaluation at the University of Toronto.

Melanie is passionate about responsible innovation in healthcare, and recently designed a public/private collaboration involving the development of artificial intelligence tools in healthcare.



Melanie de Wit
Chief Legal Officer,
Unity Health

Powers of Attorney

Advanced Decisions for Care & Finances: Who Decides & How?

Melanie de Wit, JD MPH

Elder Abuse Prevention Ontario

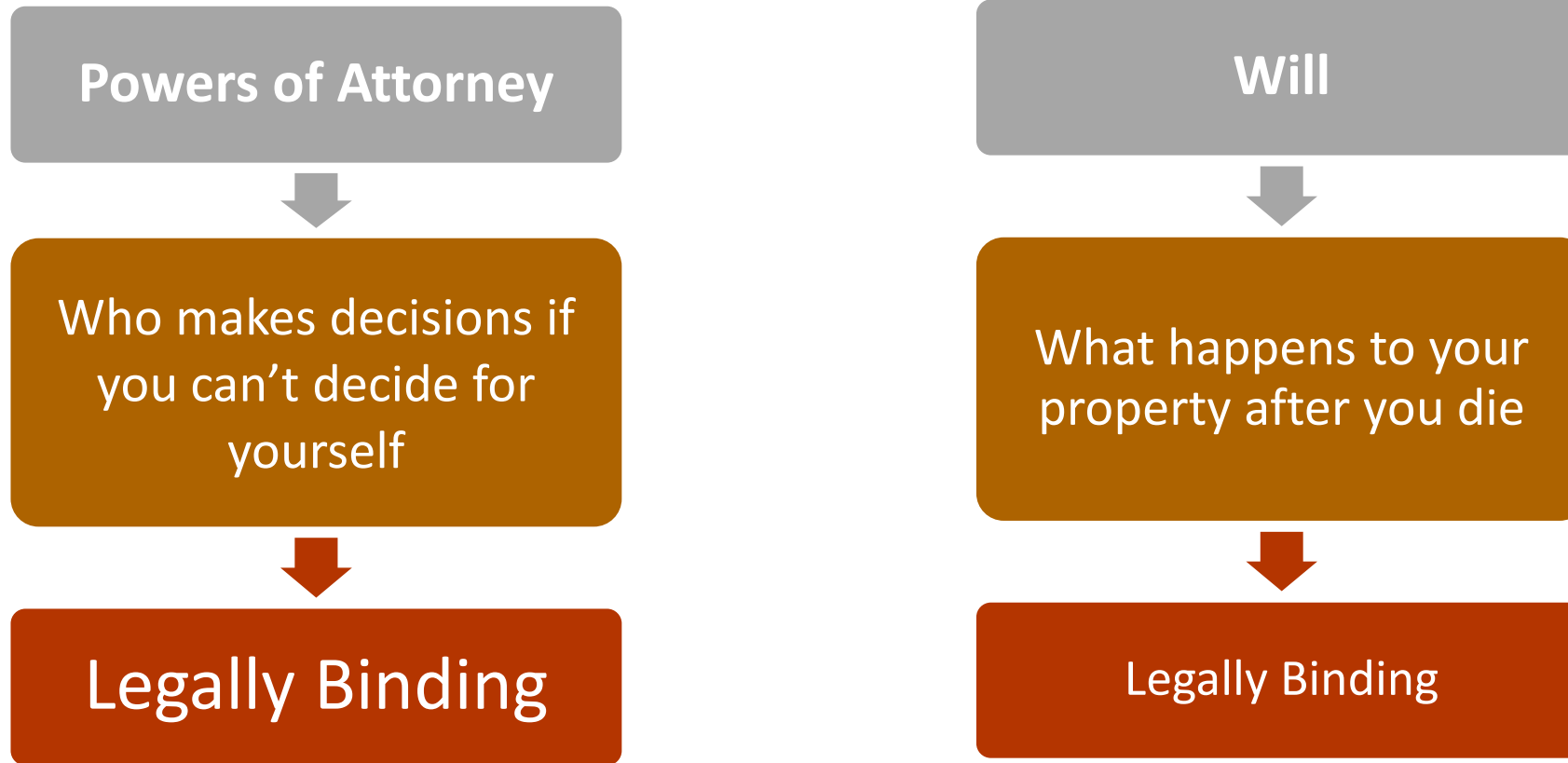
October 16, 2023

What is a Power of Attorney (POA)?

- Two types:
 1. Continuing Power of Attorney for Property
 2. Power of Attorney for Personal Care



Difference between will & POA





Important definitions

- **Attorney:** the person authorized to make decisions under a Power of Attorney (POA), also known as **Substitute Decision Maker (SDM)**
- **Grantor:** the person who created and signed the Power of Attorney



Power of Attorney for Personal Care

What's a POA for Personal Care?

- A legal document
- That names who will make care decisions for you
- And provides instructions on how to make care decisions

Who can grant a POA for Personal Care?

You must:

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

What does “capacity” to write a POA 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

Who can be an Attorney for Personal Care / SDM?

- Anyone 16+
- **CAN'T** be someone who is paid to provide health care services

What other traits may it be good for them to have?



Can I have more than one person to make decisions?

YES

- You can appoint more than one person as your Attorney
- You can also name one or more back-ups (substitutes)





When does a POA start/take effect?

When you are not capable of making decisions with respect to the following:

- medical treatment
- long-term care/services
- diet, housing, clothing, hygiene, and safety

What does it mean that I'm not capable of making care decisions?

- Anyone who is proposing a treatment or admission to long-term care has a responsibility to ensure you are capable, which means:
 1. You understand the information relevant to making a decision, AND
 2. You appreciate the consequences of saying yes or no

If you don't understand or appreciate, then a SDM will make a decision on your behalf



What if I am not capable of making a treatment decision & I don't have a POA?

1. You may still be able to make a POA for Personal Care

2. A Substitute Decision Maker (SDM) will be appointed for you.

Who is the SDM?

The highest ranking individual from this list:

LEGALLY APPOINTED

1. Guardian appointed by the court
2. Attorney for personal care
3. Representative appointed by the Consent and Capacity Board

AUTOMATIC FAMILY MEMBER

4. Spouse, common-law spouse or partner
5. Child (over the age of 16) **AND/OR** Parent with Custody Rights
6. Parent with Access Rights only
7. Brother or sister
8. Any other relative by blood, marriage or adoption

LAST RESORT

9. The Office of the Public Guardian and Trustee (OPGT)



What about my wishes for medical treatment?

- Your wishes must be respected.
- Wishes can be things you said out loud, wrote down, or typed in an email.
- They do not have to be in your POA.



How does a SDM make decisions?

- Wishes you expressed before you lost capacity to make decisions are binding on the SDM
- If there are no specific wishes applicable to the decision, then your values, general wishes and beliefs are still relevant
- Apart from values, wishes and beliefs, the SDM must make decisions in your best interests

Putting it all together: An example

- Ms. Smith is 90yo. She broke her hip at home when she fell while walking to the bathroom. Her physician recommends surgery. Ms. Smith does not want surgery because she does not want to stay in hospital and worries about rehabilitation. She wants to go home in a wheelchair, with help from her kids to eat and bathe.
 - Is Ms. Smith capable of refusing surgery?
 - The difference between a capable and incapable refusal
 - The role of ageism
- Test for capacity to make a treatment decision: (1) understand the information and (2) appreciate consequences of giving or refusing consent

Putting it all together: An example (cont'd)

- Assume Ms. Smith has been found incapable of consenting to surgery.
- She is unmarried and has three children.
- She has no POA.
- The 3 children are all SDMs.
- Two want surgery, one does not want surgery.
- Ms. Smith has always clearly stated that she wishes to avoid surgery unless it is needed to save her life. In the past she has refused surgery.

Putting it all together: An example (cont'd)

- Assume Ms. Smith has been found incapable of consenting to surgery.
- She is unmarried and has three children.
- She has a POA. It names one of her 3 children.
- It makes clear that she would like to avoid surgeries and preserve her time and quality of life at home.



Who should complete a POA for Personal Care?

- Anyone who wants to:
- Be clear about their wishes
- Appoint someone who wouldn't otherwise be the SDM
- Reduce uncertainty in the event you can't communicate

How often should I update my POA?

Review your POA to make sure it still reflects your wishes — but there is no “expiry” to a POA.





Who can help me do a POA?

Call a lawyer

- Fees charged by private lawyers vary.
- [Advocacy Centre for the Elderly](#) Toll free **1-855-598-2656**.
- Pro Bono Ontario offers a free telephone hotline service for those living on a low to mid income. Lawyers will talk to you on the phone about your POA and prepare the documents. Toll free **1-855-255-7256**.
- If you are living on a low income, you may be able to get free POAs done by a lawyer at a legal clinic.



Can I do my own POA?

- Use CLEO's [Power of Attorney Guided Pathway](#). This is a free online interview tool that helps you create POAs.
- The Ministry of the Attorney General has a "POA Kit". You can call and request one: **1-800-668-9938**. The kits are also available [online](#).

Power of Attorney for Property





Why is it called a *continuing* POA for Property?

- It can be used when you are capable
- **AND**
- It can **continue** to act after you become incapable

- A POA for Personal Care will **only** be used when you become mentally incapable

What can my Attorney for Property do?

- Anything you can do with your finances





Can anyone complete
a POA for Property?

- Be at least 18 years old, **AND**
- Have the necessary mental capacity



What is “capacity” to write a POA for Property?

- **You must know and understand:**
 - what property you have
 - who depends on you financially
 - what your Attorney can do
 - you can cancel your POA while mentally capable
 - there is some risk in doing a POA

Who assesses mental capacity?

- Generally it is the person doing the POA
- If a lawyer is assisting you, they assess capacity
- If you are doing it yourself, you assess your own capacity





What are Capacity Assessments?

- A capacity assessor may be needed if:
 - POA requires assessment, OR
 - there is no POA, and a process to appoint a guardian is underway

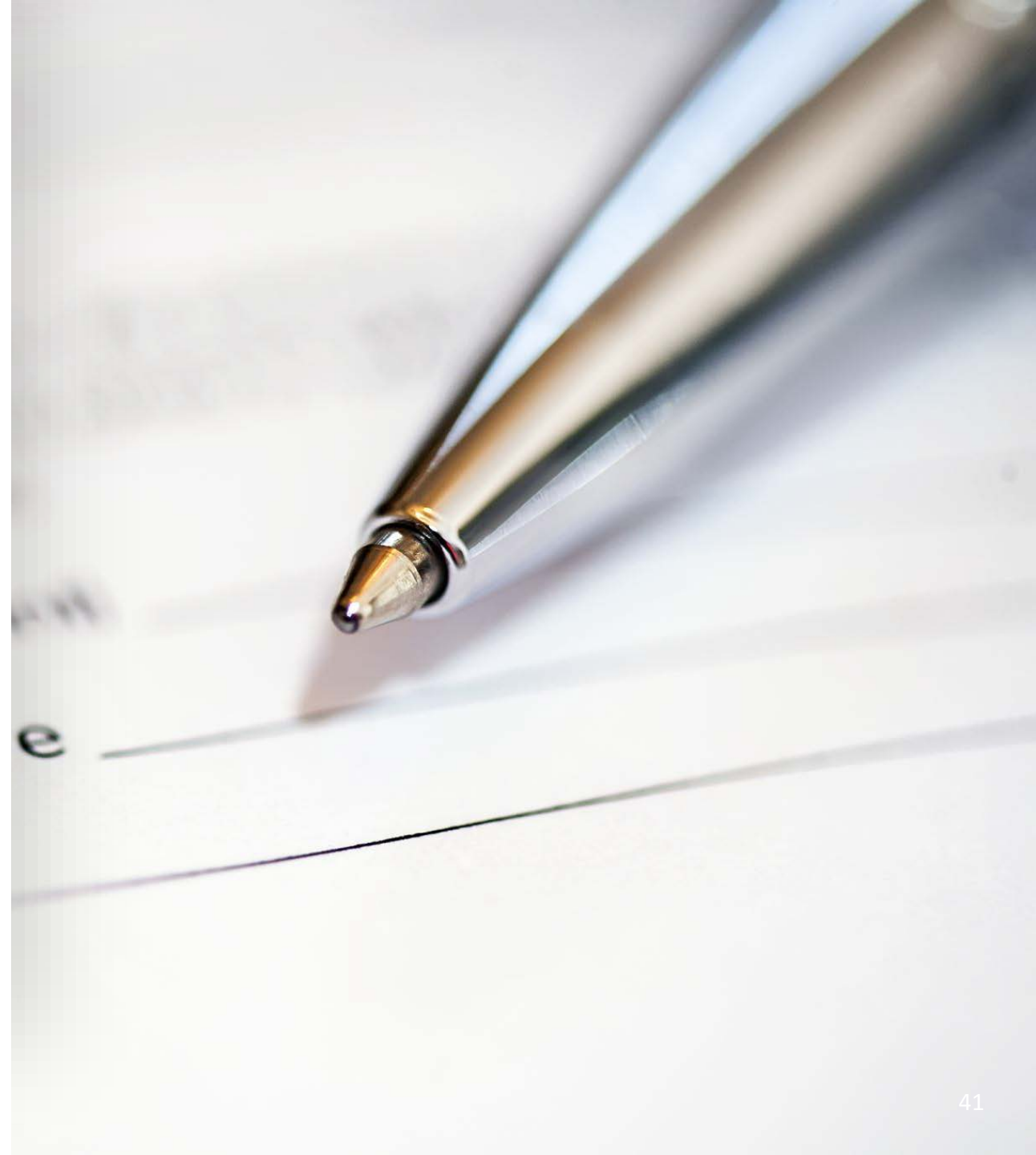
Who can be an Attorney for Property?

- Anyone 18+
- Usually it is a family member or close friend



Can I have more than one Attorney for Property?


- YES
 - You can appoint more than one person as your Attorney.
 - You can also name one or more as back-ups (substitutes).



When does a POA start/take effect?

- Can start right away
- Can start when you become incapable





What if I don't have a POA and I am mentally incapable?

1. You may still be able to make a POA for Property
2. Someone could go to court to be appointed as your Guardian of Property
3. The Office of the Public Guardian and Trustee will become your Statutory Guardian for Property

Who should complete a POA for Property?

Anyone who wants to:

- Choose the person who will make financial decisions on their behalf
- Provide specific instructions on how to make decisions
- Reduce work and uncertainty among family & friends
- Avoid delays due to capacity assessments, involvement of Public Guardian, court-ordered guardianship applications



How often should I update my POA?

- Review your POA to make sure it reflects your wishes and your life, but there is no “expiry” to a POA.



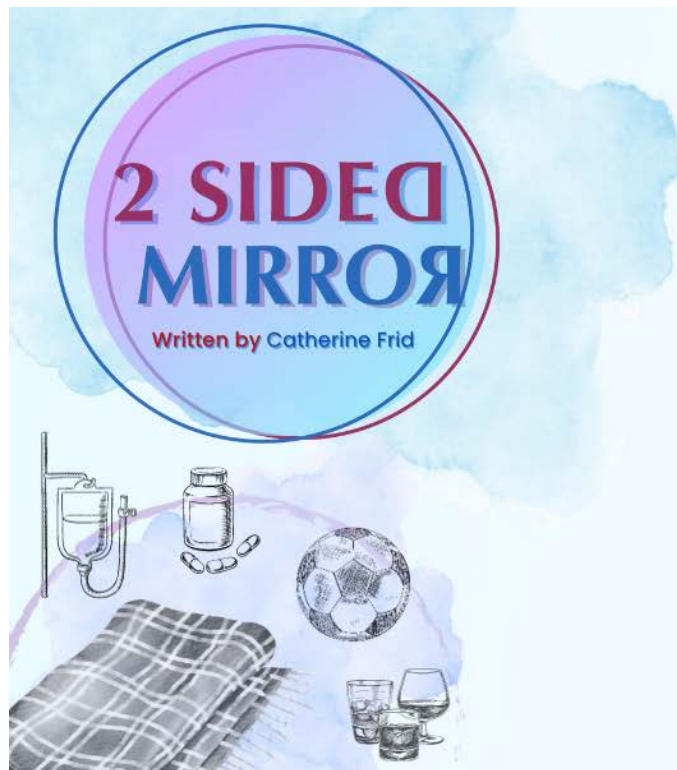
Questions?

Need help with a POA?

Melanie de Wit, JD MPH

Melanie.dewit@utoronto.ca

416-986-7783



FREE WEBINAR | TWO-SIDED MIRROR

Monday October 30th

1:00 PM - 2:30 PM (EST) 

An interactive, role play based workshop about navigating a loved one's illness and supporting older adults through depression and suicidal ideation.

Facilitated by artists from Mixed Company Theatre

Funded by the
Government of Canada's
New Horizons for Seniors Program



WÉBINAIRE GRATUIT



FREE WEBINAR



Le programme BIEN en résidence :
Promouvoir la bienveillance et lutter contre
l'intolérance entre les personnes vivant au sein
de milieux de vie collectifs et locatifs pour aînés

Le jeudi 16 novembre
DE 13H À 14H (EST) 


Présentatrices :

Roxane Leboeuf
Professionnelle de recherche, Chaire de recherche sur la maltraitance
envers les personnes aînées

Marie Beaulieu - Professeure retraitée et associée à l'U. de Sherbrooke,
Chercheuse affiliée au Centre de recherche sur le vieillissement.



Program GIFT in Residence:
Promoting goodwill and countering intolerance
between people living within collective and rent
based environments for older adults

Thursday, November 23rd
1:00 PM - 2:00 PM (EST) 

Speakers:

Roxane Leboeuf, MSW, Research agent at the Research
Chair on Mistreatment of Older Adults

Marie Beaulieu Ph. D. Adjunct and retired professor at the U.
of Sherbrooke. Affiliated researcher at the Research Centre
on Aging





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<https://pheedloop.com/ReportingElderAbuse/site/home/>



**EAPO
CONFERENCE
Series'23**

Annual Virtual Conference Series 2023

Ethical and Legal Responsibilities: Reporting Elder Abuse



November 2, 2023



10 AM to 4 PM (EST)



eapon.ca

Ontario 



To mark this year's *16 Days of Activism against Gender-Based Violence (GBV) campaign*, Elder Abuse Prevention Ontario, WomanACT, and the Canadian Network for the Prevention of Elder Abuse (CNPEA) are co-hosting a half-day virtual symposium on Gender Based Violence.



A Virtual Symposium on Innovation
and Collaboration to Combat
Gender-Based Violence

Inclusive Voices, Collective Power

Panel discussion, promising
projects, and diverse speakers.



November 29, 2023



11 AM to 4 PM (EST)

REGISTER HERE: <https://pheedloop.com/InclusiveVoicesCollectivePower/site/home/>

Your Feedback is important to us!

WE WOULD
APPRECIATE HEARING
FROM YOU.
**Please take a few
minutes to complete
our survey!**





Contact Us

Comments? Questions?
Keep in Touch

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