



# Financial Abuse & Misuse of POA – Police Perspective

Understanding legal authority and  
identifying abuse effectively

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# Understanding Power of Attorney

# Power of Attorney – What It Is



## Definition and Purpose

POA authorizes a person to act on another's behalf in specified decision areas, supporting those needing assistance.

## Scope and Limitations

Authority under POA is limited by the document scope and governing laws, preventing unlimited control or abuse.

## Types of POA

POAs cover financial and personal/health decisions, each with distinct legal requirements and protections.

## Legal and Ethical Importance

Proper understanding prevents abuse, ensures respect for autonomy, and supports lawful, ethical decision-making.

# Power of Attorney for Property (Finances)



## Scope of Authority

POA for Property allows managing finances like accounts and real estate based on document terms and restrictions.

## Timing and Risks

POA often becomes effective immediately, creating risks if actions contradict grantor's intentions or capacity.

## Conflicting Documents

Conflicts arise from multiple POA versions without clear revocation or strained family dynamics complicating decisions.

## Safeguarding Against Abuse

Professionals must watch for financial abuse red flags and understand POA limits to protect all parties involved.

## RED FLAGS

- Sudden Changes – joint accounts, POA on accounts, large withdrawals
- Move from Home Branches, Secondary on Cards, Web Access

# Power of Attorney for Personal Care



## Authority and Scope

Personal care attorneys can make health and well-being decisions when the grantor is incapable.

## Activation Conditions

Authority activates only when an individual is deemed incapable of making decisions themselves.

## Responsibilities and Risks

Personal care attorneys must act in the grantor's best interest avoiding neglect or coercion.

## Legal Safeguards

Proper documentation and capacity assessments protect the individual's dignity and autonomy.

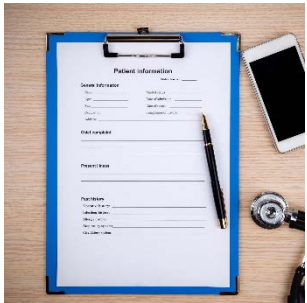
# Legal Framework and Professional Responsibility

# Provincial Legislation Governing POA



## Substitute Decisions Act Overview

The SDA governs Powers of Attorney for Property and Personal Care, detailing capacity, execution, and attorneys' duties.



## Health Care Consent Act Role

The HCCA regulates consent to medical treatment and healthcare decisions, outlining who can give or refuse consent.



## Statutory Framework Importance

These Acts protect vulnerable individuals and ensure accountability, oversight, and lawful substitute decision-making.

# Know Your Client and Fiduciary Duty

## Role as Trusted Advisors

Professionals must remain vigilant to signs of abuse, undue influence, or incapacity when working with Powers of Attorney.

## Duty to Inquire

Legal precedent mandates inquiry when reasonable suspicion arises, especially in financial matters.

## Understanding Fiduciary Duty

Fiduciary duty requires acting solely in the best interest of another as defined by law or agreement.

## Validating POA Documents

Assessing proper execution, witnessing, and validity of Powers of Attorney documents is essential to prevent abuse.



Police Investigation  
and Criminal  
Accountability

# Police Investigation Process

## Evidence Collection – VICTIM DIRECTED!

Investigators gather documentary evidence including POA documents, banking records, and medical assessments to establish facts.

## Interviews and Statements – VICTIM DIRECTED!

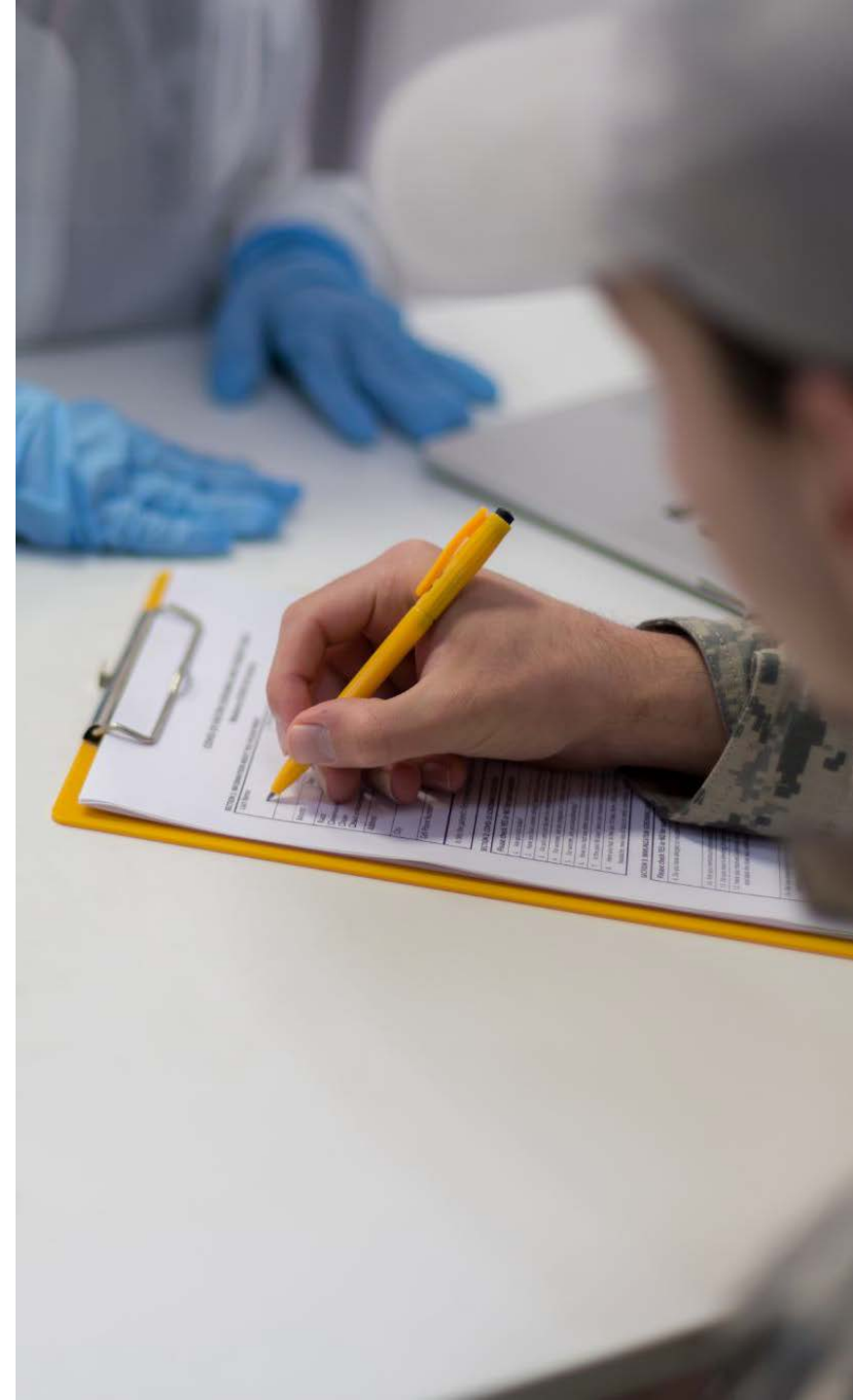
Police interview caregivers, physicians, and witnesses to collect audio or video statements for comprehensive fact-finding.

## Complex Investigation Challenges – VICTIM DIRECTED!

Family dynamics and cognitive impairment complicate investigations, requiring careful and methodical approaches.

## Protection and Prosecution – VICTIM DIRECTED!

Investigations ensure vulnerable victims are protected while maintaining legal standards for prosecution.





# POLICE RESPONSE

- Uniform Response
- General Investigations Response
- Community Engagement Response
- Dedicated Teams (training in Older Adult Investigations)
  - Hamilton
  - Ottawa
  - Halton
  - Officer Liaisons throughout Ontario
  - Waterloo Regional Police – Senior Support Team
    - Partnerships with Ontario Health at Home (Homecare)



# Offenders, Offences, and Outcomes

## Common Offenders

Offenders in POA crimes are often trusted persons like family members, care workers, or advisors.

## Types of Offences

Crimes include Theft by Person Holding Power of Attorney, Theft, Breach of Trust, Fraud, Possession of Credit Card Data and Robbery

## Investigation Outcomes

Outcomes range from victim resolutions to criminal charges with bail and restitution or prohibitions on POA authority.

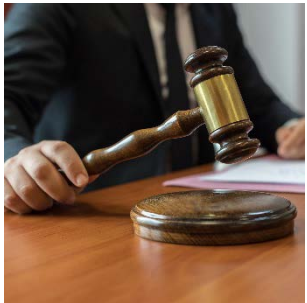
# Challenges, Case Law, and Prevention

# Challenges and Recent Case Law



## Prosecution Challenges – REAL TIME!

Limited resources, court time constraints, and attorney capacity hinder the prosecution of POA abuse cases.



## Significant Case Progress

R. v. Ehrhardt case set a precedent by convicting theft under POA with restitution and custodial sentence imposed.



## Legal Accountability

R. V Ehrhardt - Court rejected family dispute arguments, reinforcing criminal accountability for financial exploitation under POA

**THIS IS A BIG WIN!**

# Alternative Investigations



## Parallel & Other Investigations

- Office of Public Guardian and Trustee – Investigations Unit
- Internal Investigation – Banks, Care Homes, Business
- HR requirements
- Ministry of Health and Long-Term Care Investigations
- Retirement Homes – Retirement Home Regulatory Authority
- Professional Associations - Nurses, Occupational Therapists, Physiotherapists, Physicians

# Prevention, Practical Tips, and Developing Services



## Shared Responsibility

Preventing POA abuse requires cooperation among older adults, families, professionals, and institutions.

## Practical Safety Measures

Safe banking practices and informed decision-making reduce risks of financial exploitation.

## Legal Protections

Powers of Attorney should be drafted by lawyers, regularly updated, and granted with clear instructions.

## Service Development and Oversight

Capacity Clinics and registries enhance oversight and early intervention to prevent exploitation.

# Questions ?



Thank you!