

持久授權書：見證和註冊注意事項

持久授權書是一份法律文件容許授權人在精神上有能力行事時委任受權人（可多於一人），以便在授權人日後變得精神上無行為能力時，受權人可照顧其財務事項。

見證簽署持久授權書

- 授權人必須在一名註冊醫生一名香港律師的見證下簽署持久授權書，持久授權書方為簽立。
- 授權人可以
 - a. 在註冊醫生面前簽署的同時，在律師面前簽署該持久授權書；或
 - b. 先在註冊醫生面前簽署持久授權書，並由翌日的 28 內，再在律師面前簽署該持久授權書。

****律師僅負責見證其簽署持久授權書，沒有責任就持久授權書提供法律意見。律師並不負責草擬文件。**

註冊持久授權書

- 申請人可自行決定是什麼時候註冊持久授權書。即時註冊可使授權書在授權人失去行為能力即時生效。但是，若未來欲作出改變，則需要向法院提出申請。申請人亦可以等到有需要時才註冊持久授權書（即失去行為能力時）。法院通常需要二至三星期註冊，註冊持久授權書沒有時限。
- 若申請人要求將持久授權書註冊時（在授權人精神上無行為能力或正在變得無行為能力時），必須以書面向高等法院司法常務官提出，並提交以下文件：
 - a. **申請信。該信述明授權人及申請註冊的受權人或（如適用的話）每一名受權人的姓名或名稱及地址；**
 - b. **訂立持久授權書的《文書》正本及其一份核証副本。**
- 請使用統一語言，假如閣下使用中文申請持久授權書，請使用中文填寫所有資料，見證人（即律師和醫生）也須使用中文填寫所有資料，否則該申請有機會被高等法院駁回，相反亦然。
- 請使用單面列印你的持久授權書，否則申請有機會被高等法院駁回。
- 根據香港法例第 4D 章《高等法院費用規則》附表 1，申請人需往香港金鐘道 38 號高等法院大樓 1 低層二樓會計部繳交註冊訂名 **費用港幣 \$440 元。**
- 司法常務官需要申請人同時遞交 **見證註冊醫生及律師於簽立《文書》時有效的執業證書副本或其他司法常務官接受的證明文件。**
- 當持久授權書註冊後，高等法院登記處會向授權人發出一封由司法常務官簽署的信件，以通知授權人（i）該持久授權書已經註冊和（ii）註冊日期及編號。

Important matters about EPA certification and registration

Enduring Power of Attorney (EPA) is a legal document that allows a person to appoint one or more attorneys to take care of his/her financial matters in the event that they become mentally incapacitated (i.e. unable to make sound decisions).

Certification of the EPA

- To execute an EPA, a donor should sign the EPA before a registered medical practitioner and a solicitor.
- The donor may sign the EPA:
 - a. In the presence of both the solicitor and the registered medical practitioner at the same time; or
 - b. In the presence of the solicitor only at any time, not more than 28 days after the donor has already signed it in the presence of the registered medical practitioner.

****** The solicitor is merely responsible for witnessing the execution of the EPA and did not draft the EPA. This solicitor has no duty to provide any legal advice on the EPA.

Registration of the EPA

- The donor can decide when to register the EPA immediately. Immediate registration would allow the EPA to take effect immediately. However, it would require application to the court if future changes are to be made. Another option is to only register when required (when donor loses capacity). It takes 2-3 weeks for the court to process the registration and there is no deadline for registration.
- An application for registration of the EPA can be made in writing by the donor or an attorney (if donor is or is becoming mentally incapable) to the Registrar of the High Court and shall comprise of the following:
 - a. A covering letter stating the names and addresses of (i) the Donor; and (ii) the attorney or, where applicable, each of the attorneys;**
 - b. The original and a certified copy of the EPA**
- Use consistent language when filling in information, otherwise the application may be rejected by the High Court.
- The EPA should be printed in one-sided only.
- **Payment of \$440** as prescribed under the First Schedule of the High Court Fees Rules Chapter 4D is required. Payment has to be made at the Accounts Office, LG2, High Court Building, 38 Queensway, Hong Kong.
- The Registrar also requires the applicant(s) to submit **a copy of the practicing certificates (or any documentary proof acceptable by the Registrar) of both the solicitor and the registered medical practitioner who witnessed the execution of the EPA by the donor.** The time when the EPA was executed shall be within the validity period as shown in the respective practicing certificates.
- After registration, the Registry shall issue a letter signed by the Registrar, informing the donor that (i) the EPA has been registered and (ii) the date and number of the registration.