

In case of
incapacity

The protection mandate

Awareness | Support | Action



Right now, you're healthy and have no problems managing your affairs. But what if you could suddenly no longer care for yourself or manage your property? Who would do it for you? What if you no longer had the intellectual capacity to make decisions or exercise your civil rights? Who would represent you?

What if you became incapable? How would you make your wishes known to your family members or minor children?

The **protection mandate** lets you prepare for exactly these types of situations.



What is the protection mandate?

The protection mandate, previously called the “mandate in case of incapacity,” is a document that lets you express your wishes and designate who will take care of you and your property in the event you become incapable.

Incapacity

Incapacity is when a person no longer has the intellectual ability to take care of themselves or to manage their property, or when a physical limitation prevents them from expressing their wishes. Among other things, it can be caused by:

- a traumatic brain injury;
- a stroke;
- a degenerative disease (e.g., Alzheimer’s disease);
- a mental illness.

The person who prepares the protection mandate is called the **mandator**. The person designated to take care of the mandator is the **mandatary**.

Protection mandate, will or power of attorney?

The **protection mandate** is not the same thing as a will or a power of attorney. It takes effect only in the event of incapacity. A **power of attorney** is a contract in which you authorize a person to represent you and act on your behalf in certain matters related to your property, while you are still capable. A **will** is an official document that contains your last wishes. It takes effect only after your death.

To learn more about the differences between a protection mandate, a power of attorney and a will, visit [Québec.ca/protection-mandate](https://quebec.ca/protection-mandate).

Why a protection mandate?

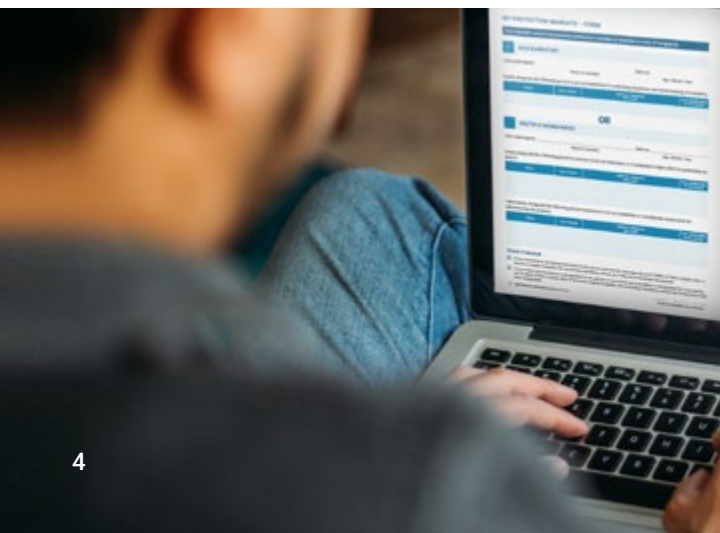
No one is immune to an illness, accident or mental health problem that could render them incapable of taking care of themselves and managing their property. This is why drawing up a protection mandate is so important. It is a way to make your wishes and preferences known to the mandatary. Without a protection mandate, your wishes may be more difficult to ascertain, especially if you are no longer able to express them yourself.

If you do not have a protection mandate, a **tutorship** may be instituted. Another person will then be responsible for protecting your person and managing your property. Family members, people close to you, and friends will recommend this person to the court.

How to prepare a protection mandate?

There are two ways to prepare a protection mandate:

- In front of two witnesses (also known as a mandate by private writing). You can use the free form available from the Curateur public at [Québec.ca/protection-mandate](https://quebec.ca/protection-mandate). The form can also be purchased in bookstores. You can also get help from a lawyer.
- Prepare a notarized mandate using the services of a notary.



Designating the people in your protection mandate

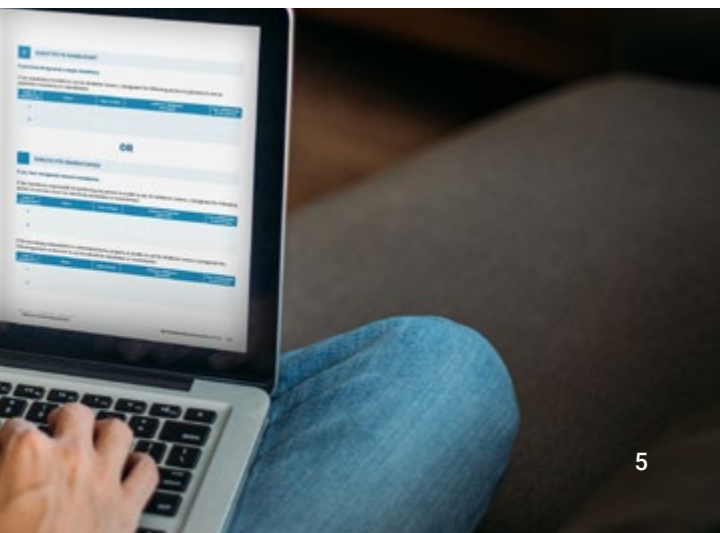
One of the major advantages of the protection mandate is that you're free to choose the person or people who will take care of you and your property. However, they must be of **full age** and **capable** of performing these tasks.

One or more mandataries?

You must name a mandatary whom you **trust completely** to take care of both your person and your property. That may be a spouse, a parent, a child of full age or an emancipated minor, a friend. You can also name several mandataries: one **mandatary to the person** and one or more **mandataries to the property**, depending on how complicated your property will be to manage.

The mandatary to the property can be a person you know or a legal person (a trust company, for example). If you choose a legal person, you should expect to pay a fee for their services.

It's also a good idea to arrange for one or more replacement mandataries in case your mandatary resigns or can no longer fulfill their role.



What should I put in my protection mandate?

Whether you prepared your protection mandate using the form provided by the Curateur public or with help from a lawyer or a notary, here are examples of some wishes you can specify:

Wishes related to your care

- medical care you may need because of your health condition (e.g., a clinical trial)
- where you want to live (at home, long-term care centre) and the services you want to receive (recreational activities);
- end-of-life wishes (e.g., refusal to be kept in a coma).

Wishes related to your property

- decisions about your investments (e.g., shareholder voting rights);
- mortgage and debt repayments (house, car, etc.);
- expenses for the care of your dependents (children's education, healthcare, summer camp, travel, etc.).



You can also list other things you would like your mandatary to do, for example, buy your grandchildren gifts every Christmas or make a monthly donation to a specific charity.

Changing your protection mandate

As long as you're capable of doing so, you can change a protection mandate that no longer reflects your needs or wishes. You can also cancel it and make a new one. Make sure to discuss this with the mandatary or any new person you choose. Let your loved ones know, too.

When does the protection mandate take effect?

The protection mandate takes effect following a court decision, once your incapacity has been established by medical and psychosocial assessments. This is called **homologation** of the protection mandate.

Whether you prepared your protection mandate alone or with help from a lawyer or a notary, an application must be made to the court to have it homologated. There are fees associated with this process.

For more information about homologation, visit [Québec.ca/protection-mandate](https://quebec.ca/protection-mandate).

What next? The register of mandates, a guarantee of security

The Curateur public du Québec maintains an updated register of homologated mandates. This register provides confirmation that a protection mandate is in effect. It also helps with identifying the mandator and the mandatary.

You can access the register online at [Québec.ca/register-representation-measures](https://quebec.ca/register-representation-measures) or by calling 1-844-LECURATEUR (532 8728).

Remember: A protection mandate lets you maintain some control over your life, even if you become incapable. In fact, your mandatary will have to abide by what's written in the document. So don't wait—prepare your protection mandate today!

For more information, visit
[Québec.ca/protection-mandate](https://Quebec.ca/protection-mandate).

CONTACT US



By telephone

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Monday, Tuesday, Thursday and Friday:

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