



接受精神行為能力評估的用處是甚麼？ WHAT ARE THE USES OF A MENTAL CAPACITY ASSESSMENT?

接受精神行為能力評估的用處有很多，其中包括：
Mental capacity assessment is useful in many ways, including:

- 1 滿足法例要求 To fulfill legal requirement**
以持久授權書為例，簽立時必須由一名註冊醫生及一名律師先後見證簽立人當時具相關的精神行為能力。而法例對此精神行為能力有明確的準則，正式評估可以根據這些準則作直接評核。
Take the example of the EPA. The donor of an EPA has to sign it with a registered medical practitioner and a solicitor to witness and certify that the donor is mentally capable in executing an EPA. The legal test of mental incapacity for the creation of an EPA is defined in the Ordinance and mental capacity assessment can allow direct assessment of mental capacity based on the legal requirement.
- 2 減少日後爭議 To minimize the risk of future dispute**
以平安紙為例，普通法對簽立時的精神行為能力有清楚的準則，正式的評估可以幫助證明簽立人是否擁有這些能力，減少日後爭議。
As for the will, there is common law test for testamentary capacity. A comprehensive mental capacity assessment can help to establish that a testator has the sufficient capacity to make the will, so as to minimize the risk of dispute in the future.

除了持久授權書外… IN ADDITION TO THE EPA…

根據監護委員會出版的《監護原謎》，除了持久授權書外，我們亦可預先簽立另外兩份預設而具法律效力的文件，好讓我們一旦失去作決定的能力時，仍能按自己的心願執行財務和醫療上的事務：
According to the “Enigma of Guardianship” published by Guardianship Board, Hong Kong, there are two other legal binding documents that can be executed by a mentally capable person to prepare for the future:

- 平安書/紙（即遺囑） Will
- 預設醫療指示 Advance Directive

以上兩份文件加上持久授權書可以合稱為「三寶文件」，亦有人叫做「長者三寶」、或「平安三寶」。如若你希望了解更多有關上述文件的詳情，歡迎向尚至醫療的健康顧問查詢。
Together with the EPA, these three documents, sometimes known as “Three Treasures for the Elderly”, provide important means for you to manage your medical and financial affairs even if you are no longer able to make your own decisions. Please consult our health consultants for more information.



持久授權書 ENDURING POWER OF ATTORNEY



聯絡我們 CONTACT US

尚至醫療大樓
Virtus Medical Tower
香港中環皇后大道中122號尚至醫療大樓10樓
10/F, Virtus Medical Tower, 122 Queen's Road Central, Hong Kong

- +852 8102 2022
- +852 9325 4580
- CustomerCare@VirtusMedical.com
- www.VirtusMedical.com



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甚麼是持久授權書？

WHAT IS AN ENDURING POWERS OF ATTORNEY?

根據《持久授權書條例》（香港法例第501章），持久授權書是一份正式法律文件，容許授權人（即計劃將其權力授予他人的人）在精神上有行為能力時，委任受權人，以便若授權人日後沒有精神行為能力時，受權人可照顧其財務事宜。

一般的授權書在授權人變為精神上無行為能力時便會失效；但持久授權書卻不會，持久授權書在完成法例要求的註冊程序後，仍可「持續」地有效，容許受權人繼續處理授權人的財務事宜。

According to the “Enduring Powers of Attorney Ordinance” (Cap. 501 of the Laws of Hong Kong), the Enduring Power of Attorney (EPA) is a legal document that allows a donor (the person wishing to give his/her power of attorney to someone), while he/she is still mentally capable, to appoint one or more attorneys to take care of the donor’s financial matters in the event that he/she subsequently becomes mentally incapacitated.

Conventionally, a power of attorney ceases to be effective if the donor becomes mentally incapacitated. However, the EPA can “endure” and remain effective after its registration is completed as required by the law, thereafter giving the attorney(s) the power to continue managing donor’s financial affairs.

「無記性」是否代表缺乏精神行為能力？

DO MEMORY PROBLEMS ALWAYS MEAN MENTAL INCAPACITY?

不一定，精神行為能力是指一些和決策有關的能力。缺乏精神行為能力的例子包括：

Not really. Mental capacity refers to one's ability to make his/her own decisions. Examples of mental incapacity include:

- 1 不能夠明確表達自己的決定或選擇：
Unable to express one's decision in a clear manner;
- 2 不能夠明白或記得與決定有關的重要資訊：或
Unable to understand or remember important information related to one's decision;
- 3 在作出決定時缺乏基本邏輯思維能力等等
Lack of logical reasoning ability when making decisions, etc.

是否只有長者才需要準備呢？

IS THE EPA ONLY FOR THE ELDERS?

當然並非只有長者才需要為未來作好準備。每一個人都可以因為急症而突然失去精神行為能力，這是不能預測的。因此，當我們有能力又有需要的時候，就應該考慮早點準備。

Of course not. The elders are not the only group who need to plan for their future. Everyone can lose his/her mental capacity due to sudden or unpredictable event. Therefore, it is important for us to prepare an EPA at an earlier stage if we have such needs and the capacity to do so.



為甚麼要簽立持久授權書？

WHY SHOULD ONE HAVE AN EPA?

雖然現今醫療技術先進，但我們不能估計自己會否有一天，又或在哪一天失去決策能力，甚至不省人事。若果沒有預早安排，很多時受影響的是自己的親人。就算你有足夠的資產去應付用於自己身上的醫療或照顧開支，但假如沒有事先授權，親人是無法按照你的意願去動用你的資產。親人可以向監護委員會申請作為監護人去動用你戶口的金錢，但通常限制多多，每月有上限，申請亦需時。很多時候親人亦要向高等法院申請委任為產業受託監管人，涉及的時間和費用更多。

簽立了持久授權書，授權可以信任的親人為受權人，親人便可隨著你的意思運用你的資產，應付醫療及照顧等方面的開支，免去不必要的負擔。

While we are living in an era of medical advancement, it is still impossible to tell will there be a day, or when will be the day we become subject to mental incapacity. If we do not plan for such contingencies, at the end of the day, it is our families that have to bear the burden of managing our affairs. Your family members, if no authority was granted by an enduring power of attorney, are not able to use your own money or assets to pay for your medical expenses. They can apply to the Guardianship Board for guardianship order. However, the application process would take time and the guardian's legal power to manage your money was limited. In many cases, family members have to apply to the High Court to an order of appointment of a committee under Part II of the Mental Health Ordinance. This can be a lengthy and costly process.

However, if you have executed an EPA and appointed your family member(s) as your attorney(s), they can manage your money or assets to pay for your medical or other expenses and be free from any unnecessary difficulties and distresses.

我想簽立持久授權書，可以如何準備？

WHAT SHOULD I DO IF I WANT TO MAKE AN EPA?

若果想簽立持久授權書，可以先從網上或其他資訊來源蒐集更多資料，了解自己是否真的有這個需要。你亦可以向你的主診醫生、律師或有關專業人士查詢，尋求專業意見。

Before you make your decision, you should gather more information either from the relevant websites or other reliable sources to find out whether you really have such needs. You can also consult your attending doctor, lawyer or other professionals from related fields for professional advice.

