



## Representation Agreements

It is useful for all adults, even those who are healthy and able bodied, to put plans in place regarding their care in the event they are unable to make decisions on their own. Planning is even more important if you are injured or if you are living with a chronic illness such as Parkinson's disease. Your ability to make important decisions may be affected at some point by the physical and cognitive changes common to Parkinson's disease. It is, therefore, important to make your values, beliefs and wishes regarding your care known to others.

Representation Agreements allow you to appoint another person (a "Representative") to make personal care and health care decisions on your behalf in the event that you become incapable of making these important decisions. A Representation Agreement can help to ensure that your wishes will be respected in the event that you no longer have the capacity to make your own personal care and health care decisions.

"Personal care" decisions include decisions on matters ranging from where you live, what you eat, participation in social activities, and contact or association with other people.

"Health care" decisions include decisions on matters ranging from routine tests and dental treatment to major surgery, and diagnostic and investigative procedures. A health care decision can include consenting to treatment or refusing treatment.

### Advantages of doing a Representation Agreement

The principal advantages of doing a Representation Agreement are as follows:

1. You can designate who your Representative is. You have the choice of appointing a single Representative or multiple Representatives. If you appoint multiple Representatives you can designate whether they may act alone or must act together. You may also designate an Alternative Representative who will act if for some reason your Representative(s) cannot act or continue to act as your Representative;

2. You can designate the scope of the authority the Representative has to make decisions on your behalf;
3. So long as you have the capacity to do so, you can revoke your Representation Agreement; and,
4. No independent selection processes are necessary to appoint someone to make personal care and health care decisions on your behalf.

### Temporary Substitute Decision Maker

If a health care decision needs to be made for you and you are incapable of making the decision on your own behalf and you have not appointed a Representative under a Representation Agreement, a Temporary Substitute Decision Maker will be chosen to decide on your behalf. A health care provider must choose the first available person, in order, from the following list, to obtain necessary consents to, or refusals of, treatment:

- (a) your spouse
- (b) your child
- (c) your parent
- (d) your brother or sister
- (e) your grandparent
- (f) your grandchild
- (g) anyone else related to you by birth or adoption
- (h) a close friend
- (i) a person immediately related to you by marriage

**The first qualified person contacted who agrees to make decisions on your behalf becomes your Temporary Substitute Decision Maker. If, in the opinion of the health care provider, there is not an available and qualified person to be your Temporary Substitute Decision Maker, or there is a dispute about who is chosen, then the Public Guardian and Trustee must either choose a person to be your Temporary Substitute Decision Maker or act as your Temporary Substitute Decision Maker. As can be seen, the Temporary Substitute Decision Maker may not be the person you would ordinarily choose to make your health care decisions.**

Other disadvantages associated with having a Temporary Substitute Decision Maker include the following:

- (a) there can only be one Temporary Substitute Decision Maker at any one point in time, whereas a Representation Agreement allows you to appoint multiple Representatives;
- (b) they have no authority to make decisions regarding your personal care or to give or refuse consent to a number of serious types of health care; and,
- (c) they have very limited ability to refuse consent to health care that is necessary to preserve life.

The existence of a Representation Agreement allows care to be provided without these delays, complications or limitations, based on a decision made by a person (or persons) chosen by you pursuant to your express wishes and instructions.

## Types of Representation Agreements

There are two different types of Representation Agreements:

- Section 7 Representation Agreements, which give your Representative the power to make decisions with respect to personal care and health care, as well as the routine management of your financial affairs such as paying bills and basic banking transactions; and,
- Section 9 Representation Agreements, which give your Representative the power to make any type of personal care or health care decision that may affect you, including the power to refuse life supporting care or treatment on your behalf.

While all Representation Agreements allow you to designate the types of personal care and health care decisions that may be made on your behalf, the extent of the powers that can be granted to your Representative under a Section 7 Representation Agreement are much more limited than those that can be granted under a Section 9 Representation Agreement. For instance, a Representative under a Section 7 Representation Agreement can only give consent to limited kinds of health care, they have very limited authority to accept a care facility proposal, and they cannot refuse life supporting care. In addition, Section 7 Representation Agreements generally require the appointment of another person, called a Monitor, to oversee the activities of your Representative.

## Do you need a lawyer to make a Representation Agreement?

While the law does not require you to consult a lawyer to make a Representation Agreement, it is recommended because a lawyer can help you understand the wide range of issues that arise with a Representation Agreement.

## Can you register a Representation Agreement?

At the Nidus Personal Planning Resource Centre & Registry, you can register both Enduring Powers of Attorney and Representation Agreements. For more information, please visit their website at [www.nidus.ca](http://www.nidus.ca).

## Helpful Resources

- **The Public Guardian and Trustee of British Columbia** has detailed information on Enduring Powers of Attorney, Representation Agreements and other important topics. You can contact them at 604 660 4444 or visit their website at [www.trustee.bc.ca](http://www.trustee.bc.ca).
- **The Nidus Personal Planning Resource Centre & Registry** provides detailed information on Representation Agreements. You can contact them at 604 408 7414 or visit their website at [www.nidus.ca](http://www.nidus.ca).
- **The Ministry of Attorney General's website, [www.ag.gov.bc.ca/incapacity-planning](http://www.ag.gov.bc.ca/incapacity-planning)**, provides information on incapacity planning, including forms that can be used. Please note that it is still recommended that you consult a lawyer, as the forms provided by the Ministry may not be appropriate for use by all persons and the Ministry does not provide legal advice.
- **Dial-A-Law®** is a library of legal information that is available by phone, as recorded scripts, and by audio and text. You can contact them at 604 687 4680 in the Lower Mainland or 1 800 565 5297 elsewhere or visit their website at [www.dialalaw.org](http://www.dialalaw.org).
- **People's Law School** offers public legal education and information. You can contact them by phone at 604 331 5400, by email at [info@publiclegaled.bc.ca](mailto:info@publiclegaled.bc.ca), or visit their website at [www.publiclegaled.bc.ca](http://www.publiclegaled.bc.ca).

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