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WHAT IS A REPRESENTATION AGREEMENT

A Representation Agreement is a legal document and is the only document which permits you to appoint someone to act on your behalf for health and personal care decisions.

Wouldn't a Will do the same thing?

No – a Will only takes effect after your death. How about a Power of Attorney? No – a Power of Attorney allows someone (Attorney) to act on your behalf for your legal and financial affairs, not for health care decisions.

Why should someone make a Representation Agreement?

- 1 – You decide who will carry out your wishes. In other words you trust that person to make the decisions which are in your best interests.
- 2 – It makes things easier on family and friends and hopefully avoids disputes.
- 3 – It avoids the need for other authorities such as the government to be involved in your personal and private affairs.

Who should make a Representation Agreement?

Pretty much everyone (adults) need a plan before an emergency or a crisis happens. In BC, if you are an adult (19 years of age), no one has the automatic right to manage your affairs if you need help due to an

illness, accident or disability.

Who should I appoint? The decision is primarily that of trust – someone you trust to make health care decisions for you, in the event of an incapacity – usually a spouse, one of your adult children or a trusted friend.

What are the duties of a Representative?

- 4 – The first duty is to help you make your own decisions.
- 5 – To act honestly and in good faith.
- 6 – Keep a record of decisions made on your behalf.
- 7 – Keep your personal information confidential, however, they may release information to others (specialists, medical services plan, etc.) in order to fulfill their duties.

What health and personal care powers are contained or given in a Representation Agreement? The powers you can give your Representative are in two sections of the Representation Agreement Act. Standard Powers are listed in Section 7. The two sections have different requirements.

Standard Health Care and Personal Care Powers

Standard Powers cover major and minor health care and personal care matters including:

- 1 – Immunizations, tests, medications;
- 2 – Dental work;
- 3 – Physiotherapy;
- 4 – Where you live;
- 5 – Arranging support services;

- 6 - Diet, exercise, grooming, personal safety;
- 7 - Taking part in activities;
- 8 - End-of-life comfort care.

Additional Powers (Section 9)

You can add powers to your Agreement for broader coverage. Additional powers you can give your representative are:

- 9 - The final say to refuse life support on your behalf (in the event your wishes conflict with medical opinion or family members);
- 10 - Making temporary arrangements for the care and education needs of your minor children;
- 11 - Consenting to experimental treatments that have no known benefit and are not approved by governing authorities. (see schedule 9)

What if I don't have a Representation Agreement for health care?

If you are found incapable of making a specific health care decision and there is no Representation Agreement, the doctor or other health care provider must select someone to be your Temporary Substitute Decision Maker (TSDM).

The law lists who can be selected as the TSDM starting with 1) Spouse; 2) An adult child; 3) A parent; 4) A Brother or Sister; 5) any other relative by birth or adoption. If you have no family, the doctor must contact the Public Guardian & Trustee (government official) Only the Public Trustee can authorize a friend, or in-law. If no one else is available the Public Trustee staff will decide for you.

Although the doctor has to follow the list in order, this is not always straightforward. The TSDM only has temporary authority for the immediate decision at hand. It is possible you might have a different person acting as your TSDM at different times. TSDMs often feel unprepared because they are only selected when there is a health crisis.

You can be prepared by having a Representation Agreement in advance of such a crisis. It avoids potential conflict and confusion for family and friends, and it is your choice not the Government who chooses who will act for you.

The Representation Agreement was introduced in February, 2000 as Law but there was much confusion with its implementation. Much of the public still feel a Power of Attorney allows someone to make health care decisions for you – this simply isn't true, but in the past, because there was no Representation Agreement, many care facilities would not allow someone as a resident unless they had a Power of Attorney in place. I would recommend you ask your Doctor and see if they have a Health Care Directive that you may sign appointing someone you trust to make those health care decisions if you are unable.

Therefore, in closing, a person should have

1. A Will – a legal document that takes effect only when you die;
2. A Power of Attorney – a legal document that allows someone you trust, to manage your legal and financial affairs;
3. A Representation Agreement – a legal document that allows someone you trust, to make health care decisions on your behalf.

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