

B.C.'s Adult Guardianship Laws: Supporting Self-Determination for Adults in British Columbia

SO, YOU'VE BEEN ASKED TO BE A REPRESENTATIVE OR MONITOR...

Representation Agreements: A New Planning Tool for British Columbians

This brochure explains the roles and responsibilities of representatives and monitors under the *Representation Agreement Act*.^{*} The government has announced that there will be changes to the Act arising from a recent review of representation agreements and enduring powers of attorney. These changes are expected to affect the types of decisions that representatives will be able to make under representation agreements. The general rights and responsibilities of representatives and monitors are not expected to be substantially altered.

Being a representative or a monitor is a serious responsibility. If you have been asked to accept either role, you probably have a number of questions. This brochure will answer some of them.

Using a Representation Agreement, we can choose people we trust to make decisions for us in the event that we can no longer make decisions independently - **whether about personal care, health care, financial or legal matters.**

The person we choose as our decision-maker is called a **representative**. We may also name another person to keep in touch with us and with our representative to make sure that the terms of our representation agreement are being followed. This person is called a **monitor**.

ABOUT REPRESENTATIVES

Who can be a representative?

- Anyone 19 years or older can be a representative.
- A credit union or a trust company can be a representative but only for financial matters.

What do representatives do?

You will be called on to help make or to make decisions for the adult who made the agreement. You will base those decisions on the instructions given to you in the agreement and on what you know about that adult's wishes, values and beliefs.

As a representative, you are in a position of trust. At all times you must act honestly, in good faith, and with care and skill.

The only decisions you may make are those that the agreement authorizes you to make.

These are the steps you must take when making decisions as a representative:

1. Communicate with the person to find out what he or she wants.
2. If the adult cannot communicate, or if it's not reasonable to do what he or she says, look for instructions in the Representation Agreement, advance directive or living will.
3. When that doesn't cover the situation, think about what you know of that person's values and beliefs.
4. If you don't know what the person's values or beliefs would be in this situation, you must make the decision in the person's best interests. When making health care decisions you must also think about whether:
 - the person's health is likely to improve with or without the proposed treatment
 - the benefit of the treatment outweighs the risk of harm, and
 - there are alternatives.

^{*} as amended effective September 1, 2001

If you are responsible for financial matters as a representative, you must keep accurate records of how you are managing the money. You must also keep records of other kinds of decisions you make as a representative, including personal care and health care decision records.

What rights do representatives have?

As a representative you can have access to the information and documents you need to make informed decisions. For example, if you have authority to make health care decisions, you can have access to relevant medical records. If you have authority to make financial decisions, you can have access to banking records.

You are entitled to get your out-of-pocket expenses from the person for whom you are acting. You will not receive an additional fee for acting as a representative unless the agreement specifically provides for it.

What should I consider before agreeing to be a representative?

If someone has asked you to be a representative, it is probably because that person knows and trusts you. Ask yourself:

- do I know the person well enough to be able to make decisions for him or her?
- could I make a decision for this person, even if it is contrary to my own values and beliefs, if it is what that person would want?
- do I have the time to do what is required?

If you can answer 'Yes' to all these questions, you may be able to play a very important role for someone who needs you.

ABOUT MONITORS

What do monitors do?

Not everyone will choose to have a monitor. For most agreements it is an option. As a monitor, your role is to:

- stay in touch with the adult
- speak with the representative if you have concerns about what he or she is doing
- call the Public Guardian and Trustee if those concerns are not resolved informally.

A monitor is mandatory for a limited agreement that includes routine management of the adult's financial affairs unless the representative is the adult's spouse or the adult has consulted with a lawyer.

What should I consider before agreeing to be a monitor?

Ask yourself:

- do I know the person well enough, or can I get enough information to know if his or her wishes are being followed?
- am I able to stay in touch with the adult and with the representative?
- do I have the time to do what is required?

You are entitled to your out-of-pocket expenses from the person for whom you are acting as monitor. In limited circumstances, you may be entitled to receive an additional fee for acting as a monitor.

How can I get more information?

This is one in a series of brochures about B.C.'s new adult guardianship laws.

For more information,
visit our website, write or fax:

**The Public Guardian and Trustee
of British Columbia**
Adult Guardianship Project
700-808 West Hastings Street
Vancouver, BC V6C 3L3.

Tel: (604) 775-0847

Fax: (604) 775-0207

Website: www.trustee.bc.ca

E-Mail: mail@trustee.bc.ca