

Take Charge— It's Your Life!

Make a Representation Agreement



D.H. Moner '99

What is a Representation Agreement?

A Representation Agreement is a way to ensure that if you need help managing your affairs, you will get it from people you choose and trust. It is also a way to ensure your wishes and values will be honoured. Representation Agreements speak for you while you are living. (Wills speak for you after your death.)

The Representation Agreement Act is a new law in B.C. which took effect on February 28, 2000. This new law allows you to appoint someone you trust (such as a spouse, friend or a family member) to make financial, legal, health or personal care decisions for you if necessary.

For example, if a woman was injured in an accident and lay unconscious in hospital, her Representative could get money from her bank account to pay important bills, hire a lawyer to file a suit over the accident, and give consent to doctors for medical treatment such as surgery.

Who CAN make a Representation Agreement?

Anyone 19 years or older can make a Representation Agreement. The law says that people who cannot make a traditional contract or manage their own affairs may make a Representation Agreement with standard powers.

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Why SHOULD you make a Representation Agreement?

It is a good idea for every adult to have an Agreement in place. A Representative can both help you make decisions now and represent you if you can't speak for yourself in the future. For example:

- Married couples do NOT automatically have the right to handle their husband or wife's affairs if their spouse is injured or ill. Your spouse does **not** have the right to take money from your bank account, get confidential information (such as income tax information), or sell a jointly owned car unless you have made a power of attorney or a Representation Agreement. If there is no legal Agreement in place, the spouse must hire a lawyer and go to court, which takes time, costs money and may require posting of a bond.
- Some people have made enduring powers of attorney, but these do not cover health and personal care decisions such as consent for medical treatment or making arrangements for home care (see page 9).
- Many people prefer to have a close friend make personal and medical decisions for them instead of family members, but under the law doctors must ask family members for consent unless you appoint a legal Representative.
- People without a legal Representative or any family members able to act for them may have their affairs turned over to the government to manage and be placed under "public guardianship" (see Office of the Public Guardian and Trustee, page 10).

Standard Powers

A Representation Agreement with standard powers is an Agreement that covers most personal, health care, legal and routine financial affairs. You can make the Agreement yourself. You do not have to get it 'notarized' and you do not have to go to a lawyer. See examples on pages 14 and 15.

The law says that anyone 19 years or older is presumed capable of making a Representation Agreement. The way you communicate does not prevent you from making an Agreement. (Some people communicate through symbols, gestures or behaviours.) The law also says that people who cannot make a traditional contract or manage their own affairs may make a Representation Agreement with standard powers.

Standard powers (in Section 7 of the Act) give your Representative the legal authority to, for example:

- get legal advice or hire a lawyer to defend or settle legal problems (except divorce)
- make arrangements for home support and where you will live and with whom
- give consent for minor and major health care including medications, dental care and surgery
- tell doctors what care and treatment you want.

Standard powers also include "routine management of financial affairs", for example:

- deposit and withdraw money from your bank account, pay your bills, and renew loans or insurance
- apply for benefits for you, such as a pension
- make some basic investments for you, such as GIC's and savings bonds
- file your income tax returns
- sell your car (if you are not using it and need money)

The full list for routine management of financial affairs is found in the Representation Agreement Regulations. To read these, see the computer web site at www.rarc.ca. Public libraries provide assistance with computers and the internet.

More Resources and Help

Representation Agreements are new. The **Representation Agreement Resource Centre** (see page 12) has additional resources to assist people to make Representation Agreements.

For up-to-date information, check the website at www.rarc.ca or phone 604-408-7414.

Additional Powers (require legal consultation)

Your Agreement can include powers in addition to the standard powers. These may reflect your current situation or things you anticipate in the future—such as owning real estate. These are sometimes called "enhanced agreements" because these powers are in addition to the standard ones.

Examples of additional powers (in Section 9 of the Act) include:

- buying or selling real estate
- making major investments of your money which

are not allowed by an Agreement with standard powers (those that involve more risk)

- running your business for you
- making temporary arrangements for your children or other dependents
- giving consent for health care you wanted when you made the Agreement but may disagree with when you become ill (because of your illness)
- refusing life-supporting health care or treatment.

To make an Agreement that includes any or all of the additional powers you must take it to a Consultant (lawyer or soon notary public). The Consultant's job is to make sure you understand what the various additional powers mean and the effect of giving these powers to your Representative. The Consultant completes a Certificate of Consultant which is attached to your Agreement.

Because you must go to a Consultant, Agreements with additional powers will have a cost. Take time to prepare before you go. Draft your own Agreement—remember to keep it simple.

When looking for a lawyer or notary public, phone several and ask about their experience and fee.

An optional "fill-in-the-blank" form is being developed for Agreements with additional powers. See page 9 for more details.

Procedures to enable notaries public to be Consultants for Representation Agreements are being finalized by government and the Society of Notaries. These are expected to be ready in the early fall of 2001.

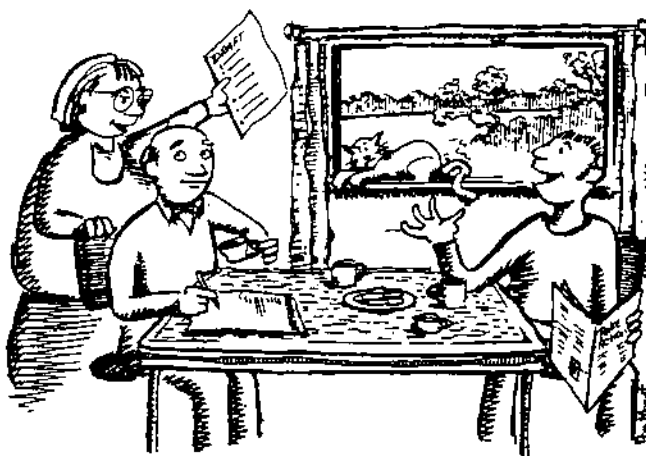
TWO STORIES

George's Story

George is an elderly man living in a care facility. He has no close relatives and little money. He receives a small pension. George's memory is not very good these days and he has trouble keeping track of his bank account. Last year the Public Trustee took over his financial affairs so that his bills would get paid. The Public Guardian and Trustee is now "Committee of his Estate."

George was very upset when the government took over his affairs so he asked his old friend, Alex, to help him out. After talking to the Public Trustee's office and the staff at the care facility, Alex told George that the Public Trustee was handling his finances fairly and it was not worth the money it would cost George to go to court and challenge them.

However, Alex found out that George does not have a "Committee of the Person"—someone who can make health care and personal care decisions for him. Right now, George is making his own health care decisions, but he may not always be able to. Alex gives George some information about Representation Agreements. George decides this is a good idea and he asks Alex to be his Representative for health care and personal care decisions.



Darlene's Story

Darlene just turned 19. She has a disability and has been living with her parents. They help her to make decisions and arrange health care and personal care services. However, when Darlene turned 19, her parents no longer had the legal right to help her with these matters.

Darlene wants to make sure her wishes and values will continue to be honoured. Darlene wants to appoint her mother and sister as Representatives because they know her the best. They will help her deal with routine financial decisions including managing her disability benefits. She also wants them to help her make arrangements for supported housing so she can move out on her own. Darlene will make a Representation Agreement with standard powers.

Drafting a Representation Agreement: Step by Step

See examples on pages 15 and 16.

1 Write down your name and identifying information

Include your name, address, phone number. If your Agreement includes real estate, make sure your name on your Agreement is the same as the one registered on the land title.

2 Name your Representative(s)

You can name one or more than one Representative. Representatives should be people you trust, and who know you and what is important to you. See page 7.

3 State the Responsibilities of Each Representative

Even if there is only one Representative, you still must spell out what decisions the Representative may make (e.g. minor and major health care, routine management of financial affairs). If you have more than one Representative, you can divide up their responsibilities (one can make financial decisions and another make personal and health care decisions). Or you may want more than one Representative to make all these decisions together.

4 Name your Alternate Representative(s)

You may also name an Alternate Representative in case a Representative dies or for some other reason is unable to do the job. If you only have one Representative, it is strongly suggested that you name an Alternate. You can have more than one Alternate Representative.

Who is a spouse?

Under the *Representation Agreement Act*, a spouse is the person you are married to OR living with in a marriage-like relationship. This includes same sex and common-law couples.

5 State when the Alternate(s) can act

You need to say when the Alternate Representative will act. You may also write in conditions that will apply when the Alternate takes over. For example you might say: "If the Alternate becomes my Representative, I appoint X as the Monitor."

6 Appoint a Monitor if required

See page 8 on the Monitor's role.

If you consult a lawyer or (soon) notary public about your Agreement, you are not required to appoint a Monitor but you may do so if you wish. If you make the Agreement on your own, with **only** standard powers (see page 2), you must appoint someone as Monitor UNLESS: your Representative is your spouse, credit union or trust company, OR you appoint at least two Representatives for the financial powers and you say that they must act together. (See *Who is a spouse?* below.)

To check if your Agreement requires a Monitor, call the Representation Agreement Resource Centre at 604-408-7414.

7 State when the Agreement begins

Your Agreement is in effect as soon as it is signed, and all the certificates are attached. Or you can spell out a future date or event when it will take effect. You must also say who will confirm this. See page 14 for an example.

8 Sign the Agreement Yourself

You sign and date the Agreement in front of the Witness(es). Two Witnesses are required for Agreements with **only** standard powers. Agreements with additional powers require legal consultation. If the Consultant also acts as a Witness, no other Witness is required.

Signing means putting your signature, an X or other mark on your Agreement. You can ask someone to sign your name if you are physically unable to sign. This person must complete a Form 4 Certificate (see step 11).

9 After you sign, the Witness(es) sign the Agreement.

Witnesses do not have to read the Agreement. Witnesses must be at least 19 years old. They cannot be a Representative or Alternate, or the spouse, child, parent, or employee of a Representative or Alternate.

Two Witnesses are required for Agreements with **only** standard powers. These Witnesses **MUST** complete a Form 5 Certificate.

Agreements with additional powers require consultation with a lawyer or notary public. If the Consultant also acts as a Witness, no other Witness is required. The Consultant fills out a Form 2 Certificate (see step 11).

10 Representatives and Alternates also Sign your Agreement

Each Representative and Alternate **MUST** sign the Agreement and each will fill in a Form 1 Certificate (see step 11).

Representative(s) and Alternate(s) do not need their signature witnessed.

The Representative(s) and Alternate(s) may sign your Agreement at different times and/or locations. Send them the original Agreement to sign and return. Or send them a copy of your signed original. They sign on the copy and return it. Attach the signed copy to the original Agreement.

It may be helpful if some of the people can sign at the same time. It can cut down on errors and allow people to demonstrate their commitment to you and their responsibilities.

11 Complete the Certificates

You **MUST** have the necessary Certificates

attached to your agreement. You will need to **MAKE EXTRA COPIES** of the Certificates included with this booklet.

Certificate of Witnesses (Form 5)

This Certificate is used for Agreements with only standard powers (no legal consultation). It is completed by the two Witnesses who watch you sign your Agreement.

The bottom section of Form 5 will generally not apply. It is for situations where real estate is involved and the legal consultant did not act as your Witness.

Certificate of Representative or Alternate Representative (Form 1)

Each Representative and Alternate must fill out one of these Certificates.

Certificate of Monitor (Form 3)

If you named a Monitor in your Agreement, the Monitor does not sign the Agreement but must fill out this Certificate.

Certificate of Person Signing for the Adult (Form 4)

If someone signed the Agreement for you because you cannot physically sign, this person completes a Certificate.

Certificate of Consultant/Witness (Form 2)

If your Agreement includes additional powers, you must go to a Consultant (lawyer or soon notary public). The Consultant will complete this Certificate.

12 Make and Distribute Copies

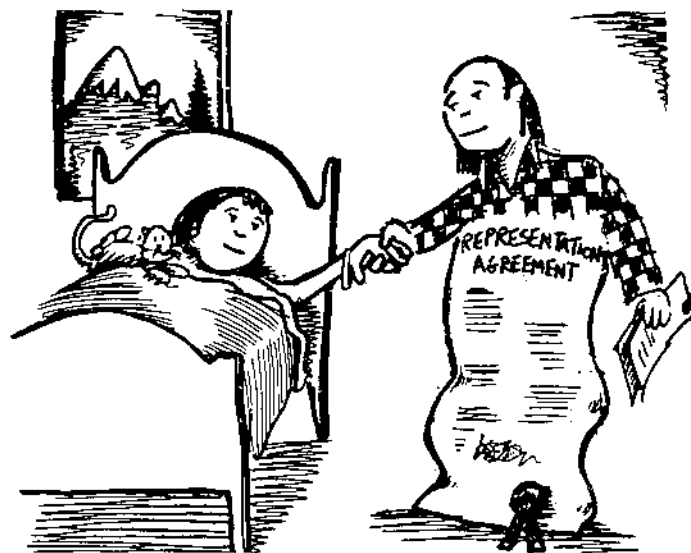
There is no registry for Representation Agreements, so you and your Representatives need to make sure that everybody who will be affected by the Agreement receives a copy. Third parties, such as your bank, will probably want to see the original signed Agreement and all the original signed Certificates, and then they will make their own copy. Be sure to keep a list of everyone who has copies in case you want to change it or make a new Agreement in the future. Put the original Agreement in a safe place and where your Representatives can get it if needed.

Specific Wishes and Instructions

Representation Agreements are just that—an Agreement. Representatives agree to assist you and to make decisions on your behalf according to your instructions and wishes and the powers given in the Agreement. You may want to go over your wishes in detail or you may trust your Representatives' knowledge of you and their judgement.

If you have very specific instructions that you want followed in all circumstances, for example "I only want my money invested in ethical funds, as defined by . . ." or "I never want to receive blood products", you should include these in your Agreement.

However, if you want to give Representatives more general guidelines or a statement of your values, it may be best to put these on separate sheets of paper.



You might write it in a letter form "Dear Representative . . .". Writing it separately prevents your Agreement from being too long and it protects your privacy. You can also tell Representatives your wishes verbally.

Example of an expression of wishes and guidelines to the Representatives

(write down SEPARATELY from the Representation Agreement or have as a verbal discussion)

I have made a Representation Agreement so that if I am unable to make decisions on my own in the future, my Representatives will speak for me.

I want my Representatives to act when I ask for assistance, or when they agree that I need assistance, or if I am injured or ill and unable to express my wishes or to manage my affairs.

Although I give my Representatives the power to act separately, I hope they will work closely together and consult with other friends and family to determine my wishes.

If I have to move out of my house to a facility or other housing, I want my house to be rented out if it is financially necessary. I do not want the house sold unless the money is needed for my health and personal care.

If I am hospitalized in serious condition and not likely to recover, I want to be allowed to die and

not be kept alive by medications, artificial means or acute measures. I want comfort measures including medication for pain even if it will hasten my death.

I have asked Jean and Elly to make sure that my cats, Hairball and Spit, are looked after if I am unable to take care of them myself.

Important Information:

My doctor's name is Dr. Wong (address, phone number). I have informed her that I have a Representation Agreement and we discussed my wishes for end-of-life care and treatment.

I bank at the Toronto Dominion Bank (branch address). I will give them a copy of this Agreement. The Nelson Trust Company (contact name, address, phone number) is Executor of my Will.

All of my important personal papers are located either in my desk, or in a safety deposit box at the Toronto Dominion Bank. Elly can get into my safety deposit box.

I am registered as an organ donor.

Some Other Things to Think About & Discuss

Choosing a Representative

Your Representative might have to make very important decisions for you some day, so choose someone you trust, who knows what is important to you and what you believe in. Your Representative should also have the right skills for the job. For example, choose a Representative for finances who is careful with money and good at recordkeeping.

You should also consider whether the person can do what you're asking. Do they have time? Are they well? If you are older it is good to have at least one Representative or Alternate who is younger.

Ask the person if they are willing to be your Representative and give them information about their responsibilities. Encourage them to ask questions and talk about their concerns.

If you are choosing more than one Representative, it helps to pick people who get along with each other.

Responsibilities of Representatives

The responsibilities of your Representatives are spelled out in the Representation Agreement Act. They include:

- Before making a decision, your Representative must ask you what you want. If you are not able to tell them, then the Representative must follow any wishes or instructions you gave them in the past. If you did not give any instructions, your Representative must act according to your values and beliefs. This means they are not to do what **they** think is best—they are to do what **you** would want done. Agreements with additional powers may customize these duties.
- Representatives must act honestly and in good faith.
- Representatives can ask a qualified investment specialist to manage some or all investment matters.
- Representatives cannot ask someone else to make decisions for them except for investment matters as mentioned above. Representatives can ask for advice. For example, they can hire an accountant to advise on your taxes, but the Representative makes the final decisions.
- Representatives have a legal right to the same information and documents you have a right to and that they need in order to make a good decision—for example, bank records, tax information or medical records.
- Representatives (and Monitors) must keep your personal information confidential.
- Representatives must keep records of the things they do on your behalf. The Monitor or the Public Trustee may ask to see these. For financial matters, Representatives must keep a list of money received or paid out on your behalf, with the date. They will also keep all statements, receipts, bills and other documents related to any financial activities. In some cases, Representatives may also need to compile a list of your financial assets (what you own) and liabilities (what you owe).
- Representatives must keep your money and other property separate from their own unless it belongs to you and the Representative as joint tenants.
- Representatives cannot do anything that is illegal or be expected to do things you ask them that are impossible or unreasonable.
- Representatives have the right to be refunded for any money they spend on your behalf.
- A trust company or credit union can be a Representative for financial and legal affairs, but not for personal or health care decisions. Ask their fee.

Responsibilities of Monitors

A Monitor oversees your Agreement to try to make sure that your Representatives are carrying out their responsibilities. You can also ask your Monitor to help your Representatives solve problems, for example by calling Representatives together with a doctor to discuss a difficult medical decision.

The Monitor does not make decisions. The Monitor does not act as an Alternate if a Representative is unable to act.

The Monitor is a safeguard to make sure that your wishes are carried out and your Representatives act honestly. The Monitor can also reassure other people that your Agreement is working. If someone challenges your Agreement, having a Monitor can give support to your Agreement in Court (see *Challenging an Agreement*, this page).

If you only have one Representative, or your Representatives are not family members, you may want to name a Monitor. Also, if your family members do not get along with each other (or with you) and you think one of them might dispute the Agreement, it is a good idea to appoint a Monitor. See page 4 to see when a Monitor is required.

When the Agreement Begins

Your Representation Agreement takes effect the moment it is signed and witnessed unless you say in the Agreement that you want it to begin at another time (such as on a particular date, or when a certain event happens).

Unfortunately it is difficult to describe a future event in a way that banks, government offices, hospitals or other third parties may agree on. For example, if you say that you want your Agreement to start when you are no longer able to make your own decisions, how will the bank know when that happens? How will your Representatives be able to prove this to a doctor or a bank, or in Court? If you want to specify a future event when your Agreement will take effect, try to make it as simple and easy to measure as possible.

Remember, you are picking Representatives because

they are people you trust. In most cases you should trust them to know when they need to act, and when they do not need to act.

Ending an Agreement

You can end your Representation Agreement at any time by sending a signed letter to your Representatives, Alternates and Monitor. Be sure to tell everybody involved that the Agreement has been cancelled (see step 12, page 5).

Changing an Agreement

You can make a new Representation Agreement whenever you want. When you do make a new Agreement, you must tell your Representatives, Alternates, and Monitor in **writing**. Tell everybody who needs to act on the Agreement that it has changed (for example, your bank and your doctor). You should also put a sentence in the new Agreement which cancels the old Agreement.

Challenging an Agreement

If someone has serious concerns about your Agreement (for example they think that your Representative is dishonest) that person can contact the Public Trustee. The Public Guardian and Trustee will investigate complaints and may go to Court to overrule the Agreement. (See box page 10.)

If someone challenges whether you are 'capable' to make a Representation Agreement with standard powers, it may be up to the Court to decide. The law says that the Court must consider all relevant factors including:

- are you able to indicate your wish to have a Representative?
- can you make your choices and preferences known?
- are you aware of the consequences of making an Agreement?
- do you have a trusting relationship with your Representative?

What is an enduring power of attorney?

A power of attorney is a legal document that gives a person or company (called the "attorney") the right to make certain financial and legal decisions for someone else. Powers of attorney were designed for when someone was not physically able to manage their finances for example they go on vacation.

Some years ago, the law was changed so people could use it as a planning tool. By adding an 'enduring clause' when you make the power of attorney, it stays in effect even if you become 'mentally incapable' of managing your own affairs. The enduring clause might say: *In accordance with the Power of Attorney Act, I declare that this power of attorney may be exercised during any subsequent mental infirmity on my part.*

However, the **enduring** power of attorney still only applies to financial, property and legal matters. It

does NOT cover health care or personal care decisions. Until the Representation Agreement Act came into effect, there was no legal document in British Columbia which could give those powers. Therefore, people often tried to use powers of attorney with doctors and hospitals even though they were not legally binding.

For information on powers of attorney, contact The People's Law School (see page 12).

Representation Agreements are designed to cover ALL areas of your life. This tool is more comprehensive, more flexible and safer for personal planning purposes. Representation Agreements are intended to replace enduring power of attorney after September 1, 2002. Those made before that date will remain in effect. (The power of attorney for business or travel purposes will continue to be available.) See page 10 for more about your choices.

FREQUENTLY ASKED QUESTIONS

Is there a Representation Agreement form?

The law describes what must be in a Representation Agreement and how it must be signed, but the law does not require a specific form for the Agreement. However, government is developing a "fill-in-the-blank" form for legal consultants to use for Agreements with additional powers. This form is optional. The Representation Agreement Resource Centre (see page 12) assists people to make Agreements with only standard powers.

The law requires the Certificates to be used exactly as they are provided in this booklet and they must be attached to your Agreement. **Make extra copies before using them.**

How much does it cost to make a Representation Agreement?

If you make an Agreement with standard powers on your own, it should cost nothing. To make an Agreement with broader powers you **MUST** go to a

lawyer and they will charge a fee. Soon, notaries public will be consultants too.

Representation Agreements are new, so prices are not yet established. Shop around.

How will my Living Will be affected by the Representation Agreement Act?

Living Wills are a way people use to spell out wishes for end-of-life care and treatment. Living Wills have never been legally binding in British Columbia. This means that you can make one, but you cannot go to court to have it upheld and you cannot force anybody to follow its instructions.

To make your Living Will legally binding, make a Representation Agreement. By giving your Representative the power to refuse life support (an "additional power") they will have the legal right and responsibility to carry out this decision according to your wishes. A Living Will is one way to give your wishes. You can include wishes in a letter or other document, in the Agreement or express them verbally. See page 6.

What is the difference between an enduring Power of Attorney and a Representation Agreement?

The most obvious difference is that an enduring power of attorney gives legal and financial powers, but it does NOT cover health care or personal care decisions.

Representation Agreements were designed for the specific purpose of addressing ALL areas of your life and they can incorporate specific wishes about how you want your affairs managed. Representation Agreements are more complete and flexible than enduring powers of attorney (they allow Alternate Representatives and Monitors). They also have more safeguards.

How will my enduring Power of Attorney be affected by the Representation Agreement Act?

If you already have an enduring power of attorney, it will stay in effect. You can leave it in place. You can make a Representation Agreement only for health care and personal care. This way you will have everything covered in the two documents.

Or you can replace your enduring power of attorney with a Representation Agreement. Cost-conscious consumers who have made nothing yet or need to change their existing enduring power of attorney will consider this option. A Representation Agreement can cover everything in ONE document. And there will be no potential conflict by having two different types of documents.

What happens to my Representation Agreement if I move to another province?

In Canada, laws about powers of attorney, wills and real estate are different from province to province. If you move to another province, you should check all your legal documents to make sure they will hold up in that province. If you have a family member moving to B.C., they should do the same thing.

If a person moves from one province to another and is not able to change their legal documents, the old documents may still meet the requirements of the

new province. Even if they are not valid, they are a record of the person's wishes and can be shown to people or agencies as an example, or used as evidence in court.

Can I make my own decisions, even though I have Representatives?

Yes. Making a Representation Agreement does NOT take away your right to make your own decisions, such as your own banking. Your Representatives only act if you are not able to act for yourself.

What if I don't make a Representation Agreement?

You are not required to make a Representation Agreement. It's your choice. A Representation Agreement is your best chance of making sure that people you choose and trust will be taking care of your affairs if you can't help yourself. It prevents the possibility of government involvement or that of people you do not want.

Office of the Public Guardian & Trustee

The Office of the Public Guardian and Trustee is a provincial government office located in Vancouver. The staff in this office make decisions for people who cannot manage their own affairs and do not have a representation agreement (or enduring power of attorney) or any family members willing or able to make decisions for them. People whose affairs are managed by this office are under "public guardianship." The Public Trustee charges a fee for doing this.

The Office of the Public Guardian and Trustee also has other roles such as investigating challenges to Representation Agreements (see *Challenging an Agreement*, page 8).

You can contact the office at 604-660-4444 or their website: www.trustee.bc.ca

If I choose my friend to be my Representative, can my family overrule my Representative's decisions?

No. Nobody can automatically overrule your Representation Agreement. However, anyone can challenge your Agreement if they believe that your Representative is not following your wishes or that you were forced to make the Agreement (see *Challenging an Agreement*, page 8).

To prevent argument, it's a good idea to tell family members and close friends about your Representation Agreement, and to make your wishes clearly known.

Can I use a Representation Agreement to say who will care for my children?

Yes. You can authorize your Representative to arrange temporary care of your minor children (until the Court makes a permanent custody decision). You must make an Agreement with additional powers to do this.

Can my group home support worker or my long term care aide be my Representative?

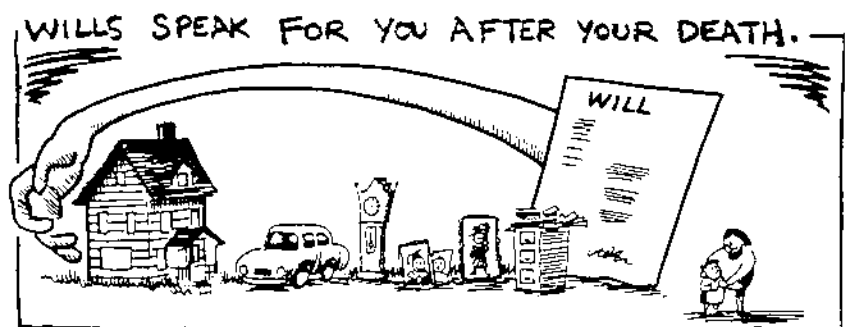
Staff can be a valuable source of information and support. However, because staff may change positions or jobs it can be difficult for them to act as a Representative. Also, the Community Care Facility Act restricts licensees and employees covered by the Act from acting as a Representative or under a Power of Attorney or as Committee for residents and former residents.

You can tell your Representative to talk to your support worker (and others who know you well) before making any decisions.

What if I don't have anyone to be a Representative?

It is particularly important for isolated people who don't have family and friends to look out for them to have a Representation Agreement. When looking for a Representative, think about getting in touch with somebody you knew in the past, or reaching out to make new friends. Community groups can be a good place to start.

The first step to having a Representative is having friendships.



SOURCES OF HELP

The Alzheimer Society of B.C.

A non-profit agency offering support, education and advocacy to people with Alzheimer Disease or related dementias and their supporters.

604-681-6530 (in Lower Mainland)

1-800-667-3742 (outside Lower Mainland)

The B.C. Association for Community Living

BCACL is a non-profit society that supports people with developmental disabilities to live in the community.

There are branches throughout B.C.

604-875-1119

The B.C. Coalition of People with Disabilities

BCCPD is a non-profit organization that represents people with all types of disabilities throughout B.C. The Coalition's mandate is to raise public awareness around issues of concern to disability communities—and to create change.

604-875-0188

Community Family Link Society of B.C.

Family Link is a non-profit organization of family members and advocates of individuals with a disability. We advocate to ensure quality of life for our family members through an autonomous network of families supporting families.

c/o 604-451-8699

PLAN (Planned Lifetime Advocacy Network)

This non-profit society offers long-term planning advice for families of people with disabilities. This includes wills and estate planning, financial planning and building networks of support.

604-439-9566

The People's Law School

The People's Law School is a non-profit society whose purpose is to provide British Columbians with reliable information about your rights and responsibilities under the law.

the
people's
law
school



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900 Howe Street
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V6Z 2M4
TEL: 604.331.3400
FAX: 604.331.3401

Visit us at our web site: www.publiclegaled.bc.ca

Lawyer Referral Service

This service will give you the name and phone number of a lawyer. You can set up an initial half-hour meeting. This gives you an opportunity to discuss their expertise, cost, and your needs.

604-687-3221 (in Lower Mainland)

1-800-663-1919 (outside Lower Mainland)

A Notary Public Near You

Procedures to enable notaries public to be Consultants for Representation Agreements are being finalized to meet an early fall 2001 timetable. Phone these numbers to find a notary public near you.

604-681-4516 (in Lower Mainland)

1-800-663-0343 (outside Lower Mainland)

The Representative Agreement Resource Centre

The Representation Agreement Resource Centre is a non-government, charitable society whose purpose is to educate and support British Columbians to make effective Representation Agreements. Members of the Resource Centre helped create and implement the new law. These volunteers include seniors, self-advocates, consumers of mental health services, community advocates, family members.

The Resource Centre partners with community organizations to distribute materials, offer workshops and provide assistance with Representation Agreements.

See our website for more information, examples and required Certificates.



Representation
Agreement
Resource Centre

411 Dunsmuir Street
Vancouver, B.C. V6B 1X4

Tel: 604-408-7414

Website: www.rarc.ca

This booklet is published by

The Representation Agreement Resource Centre
& The People's Law School.

This fact sheet is for general information only. It is not legal advice. The information is based on the law and the experiences and ideas of citizens who made and used Representation Agreements while the law was being developed. This publication updates The People's Law School booklet, Walking Through a Representation Agreement, April 1996.

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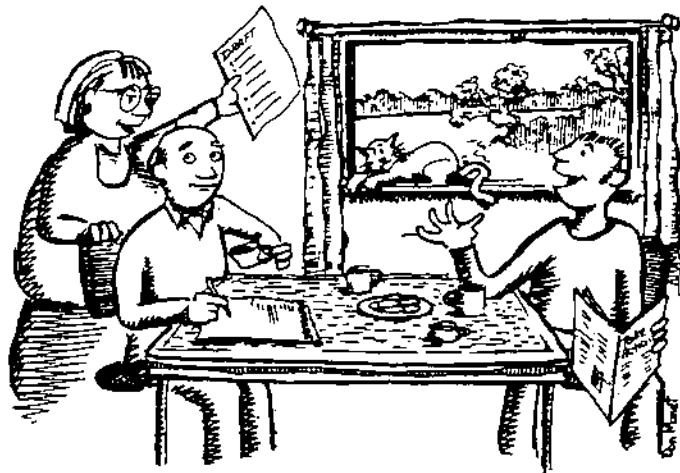
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Getting it on Paper



Sample Representation Agreements

This section is part of the information booklet, **Take Charge—It's Your Life** (Make a Representation Agreement). This section gives you an outline for a Representation Agreement. These are examples only. This is not legal advice. Representation Agreements are new and everyone is learning how to make them simple and effective.

- Read the information booklet, **Take Charge—It's Your Life**. Read this brochure.
- Talk with family, friends and potential Representatives about Representation Agreements. Give them information to read.
- Depending on your situation, interests, concerns, lifestyle, you might also want to get ideas from others such as your doctor, naturopath, community agencies, or a religious/spiritual mentor. This will help you think through who to choose as your Representative(s) and some of the important issues you need to discuss with them so they will be able to represent your wishes.
- Choose your Representatives, a Monitor if required or desired. Give them information on their roles and duties. Discuss any specific wishes.
- Do a sample draft agreement. This is worthwhile even if you are doing an Agreement with additional powers where you **MUST** consult a lawyer.

Procedures to enable notaries public to be Consultants for Representation Agreements are being finalized to meet an early fall 2001 timetable. The more you do yourself the more time and money you will save.

- Keep your Agreement as short and simple as possible. Wishes and instructions may be written on separate pages. See page 6 of **Take Charge**. Remember, third parties (bank staff, doctors) need to read the Agreement so it must be easy to follow. Get someone to check your draft to see how clear and straightforward it is to understand.
- **MAKE EXTRA COPIES** of the Certificates before you start filling them out. One set is enclosed.
- Prepare your final Agreement. See page 5 of the **Take Charge—It's Your Life** section for details on the signing and witnessing requirements.

Get help from community organizations or contact the **Representation Agreement Resource Centre**.

Phone: 604-408-7414

Email: info@rarc.ca

For a copy of the Representation Agreement Act and the Regulations, see the website at www.rarc.ca

TOM'S STORY

An Example of an Agreement with only Standard Powers

Tom is a 56 year old man who recently had a stroke. The stroke left him confused and he often cannot remember where he is or what happened. Tom is slowly getting better, but he will not be able to work again. The hospital social worker told Tom's wife to apply for a disability pension for him and gave her information about Representation Agreements.

Before his stroke, Tom worked in a warehouse. Tom's wife, Gladys, is a cashier in a grocery store. They have no children and own no property. They have lived in the same rented apartment for many years.

During her visits, Gladys spoke with Tom about a representation agreement. Gladys also talks with Tom's friend Ed and their nephew Michael. Gladys arranges for everyone to meet in Tom's hospital room—Gladys, the social worker, Tom's Representatives and Monitor, and two Witnesses. Gladys again explains the Agreement to Tom. Tom cannot physically sign, so he asks his friend Ed to sign the paper for him.

STEP BY STEP INSTRUCTIONS

1 Write your name and identifying information.

2 Name your Representative(s) and their relationship to you.

3 State the responsibilities of each Representative. Even if you only have one Representative, you must spell out their powers. For an Agreement with standard powers, it is a good idea to use the language that is in the law - as given in the sample. See box on page 13 to get a copy of the regulations that define routine management of financial affairs.

If you have more than one Representative, say who has what power(s)—do they each look after different areas or will they look after the same areas together. If your Representatives will share the same powers, you must state if they **may** act separately or **must** act together. (See sample on back cover.) If you say they must act together, the bank or hospital will want all the Representatives to sign all cheques or forms together.

4 You may name an Alternate Representative. This is important if you have only one Representative.

5 If you appoint an Alternate Representative, you **MUST** state when the Alternate will take over as a Representative. You can also say how that will be confirmed. Third parties (banks, hospitals, etc.) will need to have something to verify the Alternate is now acting as a Representative. You may also state any conditions that apply when the Alternate becomes a Representative. In this example of an Agreement with only standard powers, because the Alternate is **NOT** the spouse, when

he takes over the routine management of financial affairs, a Monitor **MUST** be appointed.

6 If you consult a lawyer or (soon) notary public about your Agreement, you are not required to appoint a Monitor but you may if you wish. If you make the Agreement on your own, with **only** standard powers (see page 2) you must appoint someone as Monitor **UNLESS**: 1) your Representative is your spouse, a credit union or trust company, **OR** 2) you appoint two Representatives for financial powers and you say that they must act together. The Monitor must fill out a Certificate (Form 3); they do not have to sign the Agreement. Call the Resource Centre at 604-408-7414 to check.

7 Say when the Agreement takes effect. "Immediately" means when the Agreement has been signed by the adult, the two Witnesses and each Representative and Alternate, **AND** all the Certificates are completed and attached. You can say the Agreement will become effective in the future but you **MUST** say who will confirm this and how. For example: "This Agreement takes effect when I ask for assistance or when my Representatives and the Monitor agree I need assistance. This will be confirmed in a letter signed by myself and/or the Representatives and Monitor."

8 You must sign and date the Agreement.

9 For Agreements with only standard powers, two Witnesses must watch you sign or make your mark on the Agreement. Then they will sign. They must also sign a Form 5 Certificate. For Agreements with additional powers, the legal consultant can also act as a Witness. In that case, no other Witness is required. The Consultant completes a Form 2 Certificate.

10 Each Representative and Alternate Representative must sign the Agreement. The Representatives and Alternates may sign at different times. They may sign a copy of the signed Agreement. The signed copy must be attached to the original Agreement. Each Representative and Alternate must also complete a Form 1 Certificate.

11 Complete and attach required Certificates.

REPRESENTATION AGREEMENT

1 My name is Tom Yip. I was born in 1944. I live at
#304 - 999 W. 70 Ave., Vancouver, B.C. (604) 666-1234.

2 I appoint my wife, Gladys Yip, to be my Representative. I authorize my
3 Representative to assist me or to manage or make decisions on my behalf
for minor and major health care as defined in the Health Care Consent
Act, personal care matters, routine management of my financial affairs as
defined in the regulation in effect on the date this agreement was made,
and obtaining legal services and instructing counsel to begin proceedings
(except divorce) or to continue, compromise, defend or settle any legal
proceedings on my behalf.

4 As Alternate Representative I appoint my nephew, Michael Chee.

5 Michael will act if Gladys is unwilling or unable to act or continue to
act as my Representative due to illness, death, or other circumstances.
Confirmation that Gladys is unable or unwilling to act will be verified
in a letter signed by the Monitor.

6 I am not required to appoint a Monitor because Gladys (my
Representative) is my spouse.

Because the Alternate is not my spouse, I appoint my friend Ed Shaw as
Monitor if Michael becomes the Representative. (See #6 p. 14)

7 This Representation Agreement is effective immediately.

8 I signed this agreement on _____ in the presence of two
witnesses named below.

Tom Yip (Ed Shaw signs for Tom Yip - see story p.14)

9 We are the two witnesses to the Representation Agreement of Tom Yip. We
signed in the presence of Tom Yip and each other on the date shown above.

Signature of Witness

Signature of Witness

Print name _____

Print name: _____

10 We are the Representative(s) and Alternate named in Tom Yip's
agreement.

Gladys Yip, Representative

Michael Chee, Alternate

11 Attached: Certificate of Witnesses, Certificate of Representative or Alter-
nate Representative, Certificate of Monitor, Certificate of Person Signing
for the Adult.

IRIS'S STORY

An Example of an Agreement with Additional Powers *

Iris is a widow in her late seventies. She has three grown children with families of their own. She lives by herself and has some trouble walking, so she doesn't leave the house very often. Iris has several good friends who visit her regularly and phone every day.

Iris wants to live independently as long as possible, but she knows that her health might get worse and she might have to move to a hospital or care facility.

Iris wants to make sure that if she is ever unable to speak for herself, somebody will be there to make

sure that her wishes and opinions are heard, and that her instructions are carried out.

Iris keeps her Agreement (see below) short and simple. She also provides more information and guidance to her Representatives and Alternate. She may do this verbally or write it out. However, for privacy and simplicity these details may not be part of the Agreement. Your Representatives can share it with others as an expression of your wishes if their decisions are being challenged. See page 6 of the **Take Charge** section for an example.

IRIS'S AGREEMENT (This type of Agreement requires legal consultation. The example is not complete.)

My name is Iris Chernyk. I am 76 years old. I live at 1234 McKay Street, Nelson, B.C. (250) 299-5678.

I choose the following people to be my Representatives. I have told and given them my wishes and I trust them.

I appoint my close friend, Jean Armano [address, phone number] and my daughter, Elly Chernyk (address, phone number), as my Representatives for minor and major health care, personal care, routine management of financial affairs and obtaining legal services and instructing counsel.

* I am giving them the additional powers: to refuse life support for me; to do, on my behalf, anything that can be done by an attorney acting under a power of attorney such as selling my house; and consenting to admission to any kind of care facility.

My Representatives may act separately.

As Alternate Representative, I appoint my son Ron Chernyk (address, phone number). Ron will act if either of my Representatives are unwilling or unable to fulfill their responsibilities due to illness, death, or other circumstances.

This agreement is effective immediately.

* To include additional powers in your Representation Agreement, you **MUST** consult a lawyer or notary public. The legal consultant will explain the additional powers and make sure you understand what powers you are giving to your Representative.

Representation Agreements are new. It will take time before these are familiar to everyone. However, it's a way **YOU** can stay in charge of your life when you need help.

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