

# British Columbia

Representation Agreement Act, 1996

Health Care (Consent) and  
Care Facility (Admission) Act, 1996



## What legal documents can I use for Advance Care Planning and what can I include in them?

- You can use an **Advance Directive** to:
  - » provide instructions to give or refuse consent to health care treatments directly to your health care provider.
- You can use a **Representation Agreement (Section 9)** to:
  - » appoint one or more Representatives to make decisions about your health and personal care if you cannot.
- You can use a **Representation Agreement (Section 7)** to:
  - » appoint one or more Representatives to make decisions about your health and personal care if you cannot.
  - » the scope of health and personal care decisions that can be made is more limited than in a Section 9 Representation Agreement,
  - » these are most commonly used where you are already experiencing a level of incapability and cannot prepare a Section 9 Agreement, which requires a higher level of understanding.



## What if I have completed documents outside of British Columbia before moving here?

The laws do not state if or when documents from outside British Columbia will be recognized as an Advance Directive.

Your document from outside British Columbia is valid as a Representation Agreement if:

- You made it while you lived in the United States of America, the United Kingdom, Australia, New Zealand, or any other province in Canada except Yukon.
- It meets the legal requirements of the location where you made it, certified by a lawyer from that location confirming it is valid.



## When can I prepare an Advance Directive or Representation Agreement (Section 9)?

- If you are 19 years of age or older.
- If you have the capacity to make decisions.

If you do not have capacity to make decisions, you may still be able to make another kind of Representation Agreement, called a Section 7.



## How do I prepare an Advance Directive or Representation Agreement (Section 9)?

- You must write, date, and sign it.
- With your permission, another person may sign on your behalf. They cannot be your witnesses, health or financial service providers who receive pay, or under the age of majority.
- Your signature needs two witnesses, or one witness if they are a lawyer or notary.



## When will my Advance Directive or Representation Agreement be used?

It will take effect if you lose the capacity to make decisions about your care.



## Who might make decisions about my care if I cannot?

If you have made an Advance Directive, your health care providers may follow this Directive if it is relevant and specific to the care you are receiving.

If you have named one or more Representatives in a Representation Agreement, they may make decisions about your care.

If you have both an Advance Directive and a Representation Agreement, unless you say otherwise in your Representation Agreement, your Representatives may still be asked about any instructions you have put in your Advance Directive.

If you have not named a Representative or made an Advance Directive, someone may be chosen as your **Temporary Substitute Decision Maker** to make decisions about your care.



## Who can I choose as my Representative?

Your Representative must be:

- 19 years or older.
- able and willing to make decision about your care.

Your Representative cannot be a person who is paid to provide personal care or health services for you (there are some limited exceptions for family members).

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**What decisions can my Representative make?**

Your Representatives can make decisions relating to your personal care or health care. Their decisions must be guided by:

- the instructions in your Directive.
- any other known wishes, belief, and values if not specified in your Advance Directive.
- your best interests if your wishes are not known.

If you choose more than one Representative:

- You can assign each one the same or different areas of health care and personal care for which they have authority.
- If they have the same area of authority, they must agree on a decision unless the Representation Agreement states otherwise.

**What decisions can my Representative not make?**

- Anything prohibited by law
- Medical assistance in dying
- Delegate their role to another person
- Treatments that are not medically necessary, including research, sterilization, or organ/tissue donation (unless stated otherwise in your Agreement)

**Where do I go for more information about Advance Care Planning?**

BC Centre for Palliative Care –  
Advance Care Planning Resources:  
[www.bc-cpc.ca/cpc/acp-resources/](http://www.bc-cpc.ca/cpc/acp-resources/)

Fraser Health – Advance Care Planning:  
[www.fraserhealth.ca/acp](http://www.fraserhealth.ca/acp) or call Toll free: 1-877-825-5034

Government of British Columbia – Advance Care Planning:  
[www2.gov.bc.ca/gov/content/family-social-supports/seniors/health-safety/advance-care-planning](http://www2.gov.bc.ca/gov/content/family-social-supports/seniors/health-safety/advance-care-planning)

NIDUS Personal Planning Resource Centre and Registry –  
Representation Agreements: [www.nidus.ca/?page\\_id=46](http://www.nidus.ca/?page_id=46)

People's Law School - Planning for Your Future:  
[www.peopleslawschool.ca/everyday-legal-problems/planning-your-future/start-your-planning-here](http://www.peopleslawschool.ca/everyday-legal-problems/planning-your-future/start-your-planning-here)

Public Guardian and Trustee of British Columbia:  
[www.trustee.bc.ca/services/services-to-adults/Pages/personal-planning.aspx](http://www.trustee.bc.ca/services/services-to-adults/Pages/personal-planning.aspx)

Speak Up - Interactive Advance Care Planning BC Workbook:  
[www.speak-upinbc.ca/](http://www.speak-upinbc.ca/)

**Who might be my Temporary Substitute Decision Maker?**

Your Temporary Substitute Decision Maker (TSDM) is identified by your health care provider from a default list of close relatives. The first person who qualifies on the list may be chosen:

1. Spouse (including common law and same gender. No restriction on length of time together)
2. Child
3. Parent
4. Brother or sister
5. Grandparent
6. Grandchild
7. Anyone else related by birth or adoption
8. Close friend
9. A person immediately related by marriage
10. Another person appointed by Public Guardian and Trustee

To qualify they must:

- be 19 years of age or older.
- be willing, capable, and available to make decisions.
- have no dispute with you.
- have been in contact with you in the past year.

**What decisions can my Temporary Substitute Decision Maker make?**

Your Temporary Substitute Decision maker can make decisions relating to your health care.

Their decisions must be guided by:

- any information they can get from you at the time.
- any wishes or instructions you expressed while capable.
- your known beliefs and values if your wishes or instructions are not known.
- your best interests if your beliefs and values are not known.

Your Temporary Substitute Decision Maker can only refuse health care necessary to preserve life if:

- there is agreement among your health care providers that the decision is medically appropriate, and
- your Temporary Substitute Decision Maker has made the decision according to the requirements above.