

# RESPONSIBILITIES OF A REPRESENTATIVE

The representative's duties are outlined in Section 16 of the *Representation Agreement Act*. Following is a plain language explanation of the role and duties. This is not legal advice.

## Overview of the representative's role

Your representative must act honestly, in good faith and within the law. It is helpful if your representative has good communication skills as they may need to deal with many different people and different situations.

## Assisted decision-making duty

Your representative's first legal responsibility is to assist you to make your own decisions. For example, a representative can help in the communication process with professionals so you can make your own choices.

## Substitute decision-making duty

When making decisions on your behalf, a representative must still check with you first to determine your current wishes. If your current wishes cannot be determined or are not reasonable to follow, then any pre-expressed wishes must be followed – things that you said or wrote down when you were capable. If these are unknown, then decisions are made according to your values and beliefs. **You** are always at the centre of all decisions. Only as a last resort may the representative impose their opinion of what is best *for* you.

## Keeping records

Representatives must keep records of the things they do on your behalf. The monitor (if one is named) or the Public Guardian and Trustee (a government official) may ask to see these and the representative must produce them. A journal can help for recording the date, outlining a brief description of the circumstances, listing the people involved (e.g., name of doctor, dentist, etc.) and noting the representative's decision or action.

For financial matters, representatives must keep a list (with dates) of money received or paid out on your behalf. 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).

## Keeping your property and money separate

Representatives must keep your money and other property separate from their own unless it belongs to you and the representative as joint tenants, BEFORE the Agreement is made. Representatives also cannot borrow or use your money for their own benefit or to help anyone else. Your money is for your benefit.

## **Making investments**

Representatives can invest your money for your benefit. The *Trustee Act* outlines the rules for investing. It says a representative must invest your monies as an experienced and reliable investor would. This is a high standard. Nidus can provide more information or your representative can call the Public Guardian and Trustee's Office (government department) at 604-660-4444.

## **Getting help and advice**

Representatives can ask for help and advice to carry out their responsibilities. For example, they might need an occupational therapist to advise on special equipment.

## **No delegating of authority**

Delegating authority means giving someone else the power to make a decision. The *Representation Agreement Act* says a representative can only delegate his or her authority for decisions about investments and only to a qualified specialist. Contact Nidus at 604-408-7414 or the Public Guardian and Trustee's Office (government department) at 604-660-4444.

## **Keeping information confidential**

Representatives must keep your personal information private except when necessary to: 1) carry out their duties; or 2) provide information to the Public Guardian and Trustee (a government official) for investigation or to make a court application.

# **THE RIGHTS OF A REPRESENTATIVE**

## **Right to information**

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, medical charts. The law says that the representative must be provided with the information or be allowed to make copies of any documents you need.

## **Out-of-pocket expenses**

Representatives have the right to be refunded for any money they spend on your behalf. Expense claims and payments should be documented.

The *Representation Agreement Act* says representatives cannot be paid a fee for making health care decisions. If you want to pay your representative a fee for other types of decisions, you will have to consult with a lawyer.

## **Protection from liability**

Representatives may not be liable (legally responsible) for errors as long as they follow their duties and any specific requirements stated in the Representation Agreement. Representatives cannot do anything that is illegal or be expected to do things you ask them that are impossible or unreasonable.