

## REPRESENTATION AGREEMENT REGULATION

- 1 **Section 2 (1) of the Representation Agreement Regulation, B.C. Reg. 199/2001, is amended by adding “, but only if the adult’s taxable income as reported in the previous taxation year is less than \$50,000” after “adult’s financial affairs”.**

The above proposal is intended to limit what constitutes “routine management of the adult’s financial affairs” for the purposes of section 7 (1) (b) of the Act, based on the adult’s income for the previous taxation year.

Option for consideration: In addition to the proposal based on the adult’s income, should a limit based on the value of the adult’s assets also be imposed and, if so, what should the amount of that limit be?

### 1.1 Section 3 is amended

- (a) in subsection (1) by striking out “or 9 (1) (g)”, and  
(b) by repealing subsection (3).

### 1.2 The following section is added:

#### Records of representatives

- 3.1 (1) A representative must keep the following records in relation to the period for which the representative is acting:
- (a) except as set out in the representation agreement, a copy of any record made by the adult of the adult’s instructions, wishes, beliefs and values within the meaning of section 16 of the Act;
  - (b) if, since the representation agreement was made, the adult’s residence changes or there is a material change in the needs of the adult with respect to personal care or health care care,
    - (i) a description of the nature of the change,
    - (ii) a list of the persons consulted in respect of the change, including the adult, and
    - (iii) a summary of the opinions respecting the change expressed by the persons referred to in subparagraph (ii);
  - (c) if the representative made on behalf of the adult a decision respecting
    - (i) major health care within the meaning of the *Health Care (Consent) and Care Facility (Admission) Act*, or
    - (ii) the admission or continued residence of the adult from a care facility within the meaning of the *Health Care (Consent) and Care Facility (Admission) Act*,a description of the decision made, including the date on which it was made;
  - (d) if the representative restricts a person from contacting or associating with the adult,
    - (i) a description of who made the restriction, and who is or was restricted and why,

- (ii) a list of the persons consulted in respect of the decision to restrict the person, including the adult,
  - (iii) a summary of the opinions respecting the decision expressed by the persons referred to in subparagraph (ii), and
  - (iv) the period of time to which the restriction applied;
  - (e) if the adult was physically restrained, moved or managed, under authority granted under the representation agreement and section 9 (1) (b) (viii) of the Act or another enactment, a description of who physically restrained, moved or managed the adult and why.
- (2) If an adult, in the adult's representation agreement, states that the adult's representative is not required to keep one or more of the records described in subsection (1), subsection (1) does not apply to the extent described in the representation agreement.

### 1.3 Section 7 (b) is repealed.

### 1.4 The following sections are added:

#### Paid caregivers as representatives

- A** If an adult, in a representation agreement that was validly made before this section comes into force, appointed as representative an individual described in section 5 (1) (a) of the Act as amended by section 44 (a) of the *Adult Guardianship and Planning Statutes Amendment Act, 2007*, S.B.C. 2007, c. 34,
- (a) section 5 (1) (a) of the Act as amended does not apply, and
  - (b) the individual may continue to act as the adult's representative.

#### Extrajurisdictional representation agreements

- B**
- (1) Subject to subsections (2) and (3), an agreement is deemed to be a representation agreement made under section 9 of the Act if the agreement
    - (a) was made validly by a person who was, at the time of its making, ordinarily resident in the jurisdiction in which the agreement was made, and
    - (b) continues to be effective in the jurisdiction in which it was made.
  - (2) Subsection (1) (b) does not include an agreement made under Part 1 or 2 of the *Adult Protection and Decision-Making Act*, S.Y. 2003, c. 21, Schedule A.
  - (3) A person named as a representative in an instrument that is deemed to be a representation agreement under section 41 of the Act must not exercise, in British Columbia, any powers or duties under the instrument
    - (a) that would not be permitted to be exercised by a representative acting under a representation agreement made under section 9 of the Act, and
    - (b) unless both the person named as representative and the maker of the representation agreement are at least 19 years of age.