Province of Alberta

PERSONAL DIRECTIVES ACT

Revised Statutes of Alberta 2000
Chapter P-6

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Note

All persons making use of this consolidation are reminded that it has no legislative sanction, that amendments have been embodied for convenience of reference only. The official Statutes and Regulations should be consulted for all purposes of interpreting and applying the law.

Regulations

The following is a list of the regulations made under the *Personal Directives Act* that are filed as Alberta Regulations under the Regulations Act

	Alta. Reg.	*Amendments*
Personal Directives Act		
Personal Directives	99/2008	*36/2013,167/2013, 26/2016*
Personal Directives (Ministerial)	26/98	*106/2002, 59/2003, 156/2003, 98/2008, 164/2010, 40/2013, 181/2013, 27/2016*

PERSONAL DIRECTIVES ACT

Chapter P-6

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Preamble

WHEREAS Albertans should be able to provide advance personal instructions regarding their own personal matters while recognizing that such instructions may only be made voluntarily and cannot include instructions relating to aided suicide, euthanasia or other instructions prohibited by law;

THEREFORE HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Alberta, enacts as follows:

Part 1
Definitions and Application

Definitions

1 In this Act,

(a) "agent" means a person designated in a personal directive to make personal decisions on behalf of the maker;

(b) "capacity" means the ability to understand the information that is relevant to the making of a personal decision and the ability to appreciate the reasonably foreseeable consequences of the decision;

(b.1) "complaint" means a complaint made under section 24.2;

(c) "Court" means the Court of Queen's Bench;

(d) repealed 2008 cA-4.2 s145;

(e) "guardian" means, except in section 7(1)(e), a guardian under the *Adult Guardianship and Trusteeship Act*;

(f) "health care" means any examination, procedure, service or treatment that is done for a therapeutic, preventive, palliative, diagnostic or other health related purpose;

(f.1) "health information" means health information within the meaning of the *Health Information Act*;

(g) "legal representative" means an attorney under the *Powers of Attorney Act* or a guardian or trustee under the *Adult Guardianship and Trusteeship Act*;

(h) "maker" means a person who makes a personal directive;

(i) "nearest relative" means, with respect to any person, the relative of that person first listed in the following subclauses, relatives of the whole blood being preferred to

relatives of the same description of the half-blood and the elder or eldest of 2 or more relatives described in any subclause being preferred to the other of those relatives regardless of gender:

(i) spouse or adult interdependent partner;

(ii) son or daughter;

(iii) father or mother;

(iv) brother or sister;

(v) grandfather or grandmother;

(vi) grandson or granddaughter;

(vii) uncle or aunt;

(viii) nephew or niece;

(j) "personal decision" means a decision that relates to a personal matter and includes, without limitation, the giving of consent, the refusal to give consent or the withdrawal of consent to health care;

(k) "personal directive" means a directive made in accordance with Part 2;

(k.1) "personal information" means information, including health information, about an identifiable individual;

(l) "personal matter" means, subject to the regulations, any matter of a non-financial nature that relates to an individual's person and without limitation includes:

(i) health care;

(ii) accommodation;

(iii) with whom the person may live and associate;

(iv) participation in social, educational and employment activities;

(v) legal matters;

(vi) any other matter prescribed by the regulations;

(m) "personal service" means a service provided with respect to a personal matter;

(m.1) "Public Guardian" means the Public Guardian appointed under the *Dependent Adults Act*;

(m.2) "represented adult" means a person who is the subject of a guardianship order made under the *Adult Guardianship and Trusteeship Act*;

(n) "service provider" means a person who carries on a business or profession that provides or who is employed to provide a personal service to an individual and when providing the service requires a personal decision from the individual before providing the service;

(o) "significant change" means an observable and sustained improvement that does not appear to be temporary.

RSA 2000 cP-6 s1;2002 cA-4.5 s63;2007 c37 s3; 2008 cA-4.2 s145

Application

2 This Act applies only to personal directives made on or after December 1, 1997.

1996 cP-4.03 s2

Part 2
Personal Directives

Who can make a personal directive

3(1) Any person who is at least 18 years of age and understands the nature and effect of a personal directive may make a personal directive.

(2) A person who is at least 18 years of age is presumed to understand the nature and effect of a personal directive.

1996 cP-4.03 s3

Personal directive by dependent adult

4 Despite section 3, a represented adult may not make a personal directive with respect to a matter over which the represented adult's guardian has authority.

RSA 2000 cP-6 s4;2008 cA-4.2 s145

Requirements of personal directive

5(1) A personal directive must

(a) be in writing,

(b) be dated,

(c) be signed at the end

(i) by the maker in the presence of a witness, or

(ii) if the maker is physically unable to sign the directive, by another person on behalf of the maker, at the maker's direction and in the presence of both the maker and a witness, and

(d) be signed by the witness referred to in clause (c) in the presence of the maker.

(2) The following persons may not sign a personal directive on behalf of the maker:

(a) a person designated in the directive as an agent;

(b) the spouse or adult interdependent partner of a person designated in the directive as an agent.

(3) The following persons may not witness the signing of a personal directive:

(a) a person designated in the directive as an agent;

(b) the spouse or adult interdependent partner of a person designated in the directive as an agent;

(c) the spouse or adult interdependent partner of the maker;

(d) a person who signs the directive on behalf of the maker;

(e) the spouse or adult interdependent partner of a person who signs the directive on behalf of the maker.

RSA 2000 cP-6 s5;2002 cA-4.5 s63

More than one personal directive

6 A person may make more than one personal directive.

1996 cP-4.03 s6

Form of personal directive

6.1 The Minister may, by regulation, establish a form for personal directives, but the use of that form is not mandatory.

2007 c37 s4

Contents of personal directive

7(1) A personal directive may contain information and instructions respecting any personal matter, including, without limitation, the following:

(a) respecting the designation of agents and their authority;

(b) designating one or more persons to determine the maker's capacity under section 9;

(c) naming the persons who are and the persons who are not to be notified of the coming into effect of the personal directive;

(d) providing instructions with respect to access to confidential information about the maker;

(e) if the maker is a guardian of a minor, designating an agent to take over the care and education of the minor until

(i) another guardian of the minor takes over the care and education of the minor,

(ii) a guardian is appointed to take over the care and education of the minor under the *Family Law Act* or the *Child, Youth and Family Enhancement Act*, or

(iii) a determination is made under section 10.1 that the maker has regained capacity.

(2) If a personal directive contains an instruction that is prohibited by law, the instruction is void.

(3) A personal directive may designate an agent

(a) by naming the individual who is to act as the agent, or

(b) subject to the regulations, by naming an office or position, the occupant of which is to act as the agent.

(4) A personal directive may designate the Public Guardian as agent if

(a) the Public Guardian is the only agent designated in the personal directive,

(b) the maker satisfies the Public Guardian that no other person is able and willing to act as agent, and

(c) the Public Guardian consents to being designated as agent.

RSA 2000 cP-6 s7;2007 c37 s5

Public Guardian as agent

7.1 If a maker designates the Public Guardian as agent in a personal directive, the maker must provide the Public Guardian with the information required under the regulations.

2007 c37 s6

Registration of information

7.2(1) The maker of a personal directive may register the information prescribed in the regulations in accordance with the regulations.

(2) The information referred to in subsection (1) may be accessed, used and disclosed in accordance with the regulations.

2007 c37 s6

Directive made outside Alberta

7.3 A directive made outside Alberta that complies with the requirements of Part 2 has the same effect as if it were made pursuant to this Act.

2007 c37 s6

Revoking a personal directive

8(1) If the maker understands the nature and effect of revoking a personal directive, the maker may revoke the directive in whole or in part in accordance with this section.

(2) A personal directive is revoked, in whole or in part,

(a) on the occurrence of a date or event that is stated in the personal directive to be the date or event that determines when the personal directive, or part of it, is revoked,

(b) by the making of a subsequent personal directive that contradicts an earlier directive, to the extent of the contradiction, or

(c) by the making of any document, including a subsequent personal directive, that expresses an intention to revoke an earlier personal directive or a part of it.

(3) A document that revokes a personal directive must meet the requirements of section 5.

(4) Despite subsection (3), a maker may revoke a personal directive by destroying the originals of the directive with the intention of revoking the directive.

1996 cP-4.03 s8

Bringing personal directive into effect

9(1) A personal directive, or part of a personal directive, has effect with respect to a personal matter only when the maker lacks capacity with respect to that matter.

(2) For the purpose of subsection (1), a maker lacks capacity

(a) when the person or persons designated in the personal directive to determine the maker's capacity make, after consulting with a physician or psychologist, a written declaration that the maker lacks capacity, or

(b) if

(i) the personal directive does not designate a person to determine the maker's capacity, or

(ii) the person designated in the personal directive to determine the maker's capacity is unable or unwilling to do so or cannot be contacted after every reasonable effort has been made,

when 2 service providers, at least one of whom is a physician or a psychologist, make a written declaration that the maker lacks capacity.

(3) A physician or psychologist who has been consulted in the making of, or who makes, a determination of a maker's lack of capacity in accordance with subsection (2) must keep a written record of the determination of lack of capacity and the name of any other person involved in making the determination.

(4) When a determination of lack of capacity has been made under subsection (2), the person making the determination must provide a copy of the declaration to the maker, the maker's agent, if any, and any other person designated in the maker's personal directive and must advise them

(a) that a determination has been made that the maker lacks capacity, and

(b) that the maker may make an application to the Court for a review of the determination.

(5) Within a reasonable time after a personal directive takes effect with respect to a personal matter, if an agent is designated in the directive with respect to that matter, the agent must, subject to the personal directive, make every reasonable effort to notify the nearest relative and legal representative of the maker that the directive is in effect.

1996 cP-4.03 s9

Personal directive ceases to have effect

10 A personal directive ceases to have effect in the following circumstances:

(a) with respect to a personal matter, when a determination that the maker has regained capacity to make decisions with respect to that matter is made under section 10.1;

(b) on the maker's death;

(c) on revocation of the personal directive in accordance with section 8, to the extent of the revocation;

(d) on a determination by the Court pursuant to section 27 that the personal directive ceases to have effect.

RSA 2000 cP-6 s10;2007 c37 s7

Determination of regained capacity

10.1(1) When a personal directive is in effect with respect to a personal matter, if it appears to an agent who has authority to make personal decisions with respect to that matter that there has been a significant change in the maker's capacity, the agent must

(a) consult with a service provider who provides health care services and assess the maker's capacity in accordance with the regulations, and

(b) if the agent and service provider agree that the maker has regained capacity to make decisions with respect to that or other personal matters, make a determination in the prescribed form.

(2) When a personal directive is in effect with respect to a personal matter, if it appears to a service provider who provides or who intends to provide health care services to the maker that there has been a significant change in the maker's capacity, the service provider must

(a) consult with any agent who has authority to make personal decisions with respect to that matter and assess the maker's capacity in accordance with the regulations, and

(b) if the service provider believes, or if there is an agent as described in clause (a), the service provider and the agent agree, that the maker has regained capacity to make decisions with respect to that or other personal matters, make a determination in the prescribed form.

(3) A maker may request that the maker's agent or a service provider who provides health care services assess the maker's capacity under subsection (1) or (2), as the case may be, but the agent or service provider may refuse the request if it does not appear to the agent or service provider that there has been a

significant change in the maker's capacity to make personal decisions.

(4) If an assessment has been done under subsection (1) or (2) and the agent and the service provider do not agree as to whether the maker has regained capacity, the agent must arrange to have the maker's capacity assessed under subsection (5), and if the agent does not make arrangements as soon as is practicable, any service provider may do so.

(5) Where subsection (4) applies, 2 service providers, at least one of whom is a physician or a psychologist, may assess a maker's capacity and make a determination in accordance with the regulations that the maker has regained capacity to make decisions with respect to one or more personal matters.

(6) When a determination has been made under this section, the person making the determination must provide a copy of the determination to the maker, to the maker's physician and agent, if applicable, and to the operator of a residential facility that provides accommodation to the maker, if applicable.

2007 c37 s8

Part 3
Agents

Effect of agent's decisions

11 A personal decision made by an agent in accordance with this Act has the same effect as if the maker had made the personal decision while the maker had capacity.

1996 cP-4.03 s11

Limitations on agent's authority

12 If, at any time while a personal directive is in effect, an agent designated in the directive

(a) is under 18 years of age, or

(b) lacks the capacity to make personal decisions on behalf of the maker,

the agent has no authority to act under the personal directive.

1996 cP-4.03 s12

Duty to consult

13 Before making a personal decision pursuant to a personal directive, an agent must consult with the maker regarding the decision.

1996 cP-4.03 s13

Agent's authority

14(1) Unless a personal directive provides otherwise, an agent has authority to make personal decisions on all personal matters of the maker.

(2) An agent must follow any clear instructions provided in the personal directive that are relevant to the personal decision to be made.

(3) If the personal directive does not contain clear instructions that are relevant to the decision to be made, the agent must

(a) make the decision that the agent believes the maker would have made in the circumstances, based on the agent's knowledge of the wishes, beliefs and values of the maker, or

(b) if the agent does not know what the maker's wishes, beliefs and values are, make the decision that the agent believes in the circumstances is in the best interests of the maker.

1996 cP-4.03 s14

Limitation on authority

15 Despite section 14, an agent has no authority to make personal decisions relating to the following matters unless the maker's personal directive contains clear instructions that enable the agent to do so:

(a) psychosurgery as defined in the *Mental Health Act*;

(b) sterilization that is not medically necessary to protect the maker's health;

(c) removal of tissue from the maker's living body

(i) for implantation in the body of another living person pursuant to the *Human Tissue and Organ Donation Act*, or

(ii) for medical education or research purposes;

(d) participation by the maker in research or experimental activities, if the participation offers little or no potential benefit to the maker;

(e) any other matter prescribed in the regulations.

RSA 2000 cP-6 s15;2006 cH-14.5 s15

More than one agent

16(1) If more than one agent is authorized to act with respect to the same personal matter and the agents are unable to agree on who will communicate decisions, the agent designated first in the personal directive is authorized to communicate decisions.

(2) If more than one person is designated as an agent and

(a) each agent has the same authority,

(b) the agents do not agree on a decision, and

(c) the personal directive contains no directions for resolving the disagreement,

the decision of the majority of the agents is deemed to be the decision.

1996 cP-4.03 s16

Duty to keep records

17(1) An agent must

(a) keep a record of personal decisions made by the agent under a personal directive, and

(b) keep the record during the period that the maker lacks capacity and for at least 2 years after the agent's authority ceases.

(2) During any period of time that an agent is required to retain a record of personal decisions, the agent, on request,

(a) must, subject to a personal directive, provide a copy of the record to the following:

(i) the maker;

(ii) the maker's lawyer;

(iii) the maker's legal representative who has authority with respect to a matter addressed in the record, but only that portion of the record that is relevant to that person's authority;

(iv) any other agent who has decision-making authority with respect to a matter addressed in the record, but only that portion of the record that is relevant to that person's authority;

(b) may, subject to a personal directive, provide a copy of the record or any portion of it to any person if the agent considers that it is in the interests of the maker to do so.

1996 cP-4.03 s17

Remuneration

18 An agent is not entitled to receive any remuneration for exercising any authority under the personal directive unless the personal directive so provides.

1996 cP-4.03 s18

Part 4
Service Providers

Providing services

19(1) If a service provider intends to provide personal services with respect to a personal matter to a maker who lacks capacity and a personal directive is in effect, the service provider must

(a) if the personal directive designates an agent, follow any clear instructions of the agent that are relevant, or

(b) if the personal directive does not designate an agent or if the agent designated is unable or unwilling to make a personal decision or cannot be contacted after every reasonable effort has been made, follow any clear instructions in the personal directive that are relevant to the decision to be made.

(2) If

(a) an agent has not been designated under the personal directive with respect to a personal matter and the personal directive does not contain any clear and relevant instructions for the service provider to follow under subsection (1)(b), or

(b) an agent has been designated under the personal directive with respect to a personal matter, but

(i) the agent cannot be contacted after every reasonable effort has been made by the service provider, or

(ii) the agent is unable or unwilling to make a personal decision,

the service provider must make every reasonable effort to contact the maker's nearest relative or any other individual described in the regulations for the purpose of informing the relative or other individual of the circumstances.

1996 cP-4.03 s19

Authority to provide service

20 A personal service provided in accordance with this Act by a service provider has the same effect as if the authority to provide the service had been given by the maker while the maker had capacity.

1996 cP-4.03 s20

Continuing duty to consider capacity

21(1) Despite that a service provider is aware that a determination has been made that a maker lacks capacity, the service provider must, before providing a personal service, make a reasonable effort to determine if the maker continues to lack capacity.

(2) If a service provider believes that a maker continues to lack capacity, the service provider may, in providing services to that maker, continue to rely on the previous determination of lack of capacity.

1996 cP-4.03 s21

22 Repealed 2007 c37 s9.

Duty to verify matters

23 If a person claims to be an agent with authority to provide a service provider with a personal decision, the service provider must satisfy himself or herself

(a) as to the identity of the person who claims to be an agent, and

(b) as to the authority of the agent to make the personal decision.

1996 cP-4.03 s23

Providing emergency medical services

24(1) If a person who appears to lack capacity has made a personal directive but

(a) the personal directive has not been located,

(b) the agent designated in the personal directive to make the personal decision with respect to the matter is unable or unwilling to make the decision or cannot be contacted after every reasonable effort has been made and the personal directive does not contain any clear and relevant instructions, or

(c) the personal directive does not designate an agent and the personal directive does not contain clear and relevant instructions,

a health care practitioner may provide emergency medical services, without consent, to the person.

(2) If a health care practitioner has provided an emergency medical service under subsection (1), the health care practitioner must as soon as practicable make a reasonable effort to contact any one of the following for the purpose of informing that person that an emergency medical service has been provided under this section:

(a) the agent or guardian, if any, of the person to whom an emergency medical service has been provided;

(b) the nearest relative if there is no agent or guardian;

(c) any other individual described in the regulations, if there is no nearest relative.

1996 cP-4.03 s24

Part 4.1
Public Guardian

Delegation by Public Guardian

24.1 Where the Public Guardian is given any power or duty under this Act or by an order of the Court, the Public Guardian may authorize in writing one or more persons to exercise or perform that power or duty on any conditions or in any circumstances that the Public Guardian prescribes, and afterwards that power or duty may be exercised or performed by the person or persons in accordance with the authorization in addition to the Public Guardian.

2007 c37 s10

Complaints to Public Guardian

24.2(1) Any interested person may make a complaint to the Public Guardian if a personal directive is in effect and there is reason to believe that

(a) an agent of the maker is failing to comply with the personal directive or the duties of an agent, and

(b) the failure is likely to cause harm to the physical or mental health of the maker.

(2) A complaint must be in writing and signed by the complainant, and may be in a form provided for in the regulations.

(3) No complaint may be made under subsection (1) in respect of anything done or omitted to be done by an agent before this section came into force.

2007 c37 s10

Investigation by Public Guardian

24.3(1) The Public Guardian must review a complaint to decide whether an investigation of the complaint is necessary and must notify the complainant of the decision.

(2) If the Public Guardian conducts an investigation, the Public Guardian must, as soon as is practicable in the circumstances, make a reasonable effort to notify the following persons that the Public Guardian is conducting the investigation:

(a) the maker;

(b) the agent who is the subject of the complaint;

(c) any other agents designated in the personal directive;

(d) any service providers named in the complaint.

(3) For the purpose of conducting an investigation the Public Guardian may interview any person who may assist in the investigation, and is entitled to access to all records that may be relevant to the investigation that are held by the agent who is the subject of the complaint or a service provider, including records containing personal information and health information, for the purpose of inspecting them, making copies of them or taking extracts from them.

(4) If the Public Guardian is refused access to records referred to in subsection (3), the Public Guardian may apply to the Court for an order, and the Court may grant an order, permitting the Public Guardian to require the production of any records that may be relevant to the investigation.

2007 c37 s10;2009 c53 s128

Powers of Public Guardian after investigation

24.4 If, after conducting an investigation, the Public Guardian is satisfied that there are reasonable grounds to believe that the grounds for complaint set out in section 24.2(1) apply to the agent who is the subject of the complaint, the Public Guardian may do one or more of the following:

(a) attempt to resolve any matter relating to the complaint;

(b) refer the complainant, the agent who is the subject of the complaint and any other persons the Public Guardian considers appropriate to an alternative dispute resolution process acceptable to the Public Guardian or provided for in the regulations;

(c) apply to the Court under section 25 for one or more orders referred to in section 27.

2007 c37 s10

Collection and disclosure of information

24.5(1) The Public Guardian and anyone acting for or under the direction of the Public Guardian

(a) may collect and use personal information for the purposes of conducting an investigation or resolving a complaint under this Part, and

(b) must not disclose any personal information obtained under this Part, except as provided in this section.

(2) The Public Guardian may use or disclose, or may authorize anyone acting for or under the direction of the Public Guardian to use or disclose, personal information

(a) if the use or disclosure is necessary for the purposes of conducting an investigation or making an application to the Court,

(b) if the disclosure is for the purposes of section 24.6, or

(c) if the disclosure is authorized or required under the *Freedom of Information and Protection of Privacy Act* or another enactment.

2007 c37 s10

Notification of authorities

24.6(1) If the Public Guardian or a person acting for or under the direction of the Public Guardian reasonably believes that the subject-matter of a complaint could constitute

(a) an offence under the *Criminal Code* (Canada), the Public Guardian or person must, as soon as possible, refer the complaint to a police service;

(b) abuse against a client under the *Protection for Persons in Care Act*, the Public Guardian or person must, as soon as possible, refer the complaint to the Department under that Act;

(c) an offence under a statute or regulation of Alberta, the Public Guardian or person must, as soon as possible, refer the complaint to the Minister of Justice and Solicitor General.

(2) The Public Guardian or a person acting for or under the direction of the Public Guardian may, when referring a complaint under subsection (1), disclose information that the Public Guardian or person reasonably believes relates to the possible offence or abuse.

2007 c37 s10;2013 c10 s34

Part 5
Court Review

Application

25 A person who makes a personal directive, the Public Guardian or any other interested person may apply to the Court for any one or more orders referred to in section 27.

RSA 2000 cP-6 s25;2007 c37 s11;2009 c53 s128

Service of originating notice

26(1) The application must be served on the maker and the persons described in the regulations and on any other person the Court determines should be served.

(2) The Court may, if the Court considers it appropriate to do so, with respect to any or all of the persons referred to in subsection (1),

(a) shorten the time for service,

(b) direct the manner of service or approve the manner of service that has been effected, or

(c) dispense with the requirement for service except with respect to the person who is the subject of the application.

(3) Despite subsection (1), an application may be made ex parte if the Court considers it appropriate to do so.

RSA 2000 cP-6 s26;2009 c53 s128

Decision of Court

27(1) The Court may, on hearing an application under section 25, do any one or more of the following:

(a) make a determination of capacity of the maker or agent after considering a report made under subsection (2)(b);

(b) determine the validity of a personal directive or any part of it;

(c) based on instructions contained in a personal directive, vary, confirm or rescind a personal decision, in whole or in part, made by an agent;

(d) determine the authority of an agent;

(d.1) revoke the authority of an agent referred to in section 24.4, in whole or in part, if the agent is failing to comply with the personal directive or the duties of an agent and the Court considers that the failure is likely to cause serious harm to the physical or mental health of the maker;

(e) provide advice and directions;

(f) make a decision where a majority cannot agree under section 16(2);

(g) stay a decision of an agent;

(h) make any other order that the Court considers appropriate that is not inconsistent with a personal directive.

(2) For the purpose of assisting the Court in making a decision under subsection (1), the Court may

(a) require an agent to provide to the Court a report of the personal decisions made by the agent, or

(b) order that a report on the capacity of a maker or an agent be prepared.

(3) In making a decision under subsection (1), the Court may not add to or alter the intent of an instruction contained in a personal directive.

RSA 2000 cP-6 s27;2007 c37 s12

Part 6
Liability and Protection

Protection from liability

28(1) No action lies against an agent for anything done or omitted to be done in good faith while carrying out the authority of the agent in accordance with this Act.

(2) No action lies against a service provider for anything done or omitted to be done in good faith in acting or purporting to act in accordance with this Act.

(3) No action lies against an agent or service provider for anything done or omitted to be done in good faith in reliance on a personal directive if the maker of a personal directive has

(a) changed or revoked the personal directive, or

(b) revoked the authority of the agent

without the knowledge of the agent or service provider, as the case may be.

(4) No action lies against the Public Guardian, or against a person acting for or under the direction of the Public Guardian, for anything done, reported or said in good faith in the exercise or performance or the intended exercise or performance of a power, duty or function under this Act.

RSA 2000 cP-6 s28;2007 c37 s13

No disentitlement

29 If an agent has acted in good faith, a personal decision made by the agent does not affect the entitlement of the agent or the agent's spouse or adult interdependent partner, or anyone claiming through either of them, to the following:

(a) a disposition under the will of the maker;

(b) the proceeds of an insurance policy on the life of the maker;

(c) a share of the estate of the maker under Part 3 of the *Wills and Succession Act*;

(d) an order under Division 2 of Part 5 of the *Wills and Succession Act*.

RSA 2000 cP-6 s29;2002 cA-4.5 s63;
2010 cW-12.2 s121

Part 7
General

Information

30(1) Subject to any limitation set out in a personal directive, when a personal directive is in effect with respect to a personal matter, an agent who has authority to make decisions with respect to that matter has the same right as the maker to access, obtain or collect from any person personal information respecting the maker that is relevant to the personal decision to be made.

(2) Subject to any limitation set out in a personal directive, the following persons may collect, use or disclose the personal information respecting the maker that is relevant to a determination of the maker's capacity:

(a) a person referred to in section 9(2);

(b) a service provider, physician or psychologist referred to in section 9 or 10.1;

(c) an agent referred to in section 10.1.

(3) A public body within the meaning of the *Freedom of Information and Protection of Privacy Act*, a custodian within the meaning of the *Health Information Act* and an organization within the meaning of the *Personal Information Protection Act* may disclose personal information respecting a maker, with or without consent to the disclosure of that information, to

(a) an agent who has the authority to access, obtain or collect the information under subsection (1), and

(b) a person who has the authority to collect the information under subsection (2).

(4) An agent or person referred to in subsection (2) may use the personal information described in this section only to carry out the authority of the agent or to assess and determine the maker's capacity, as the case may be.

RSA 2000 cP-6 s30;2007 c37 s14

Offence

31 Any person who, without the consent of the person who makes or revokes a personal directive, wilfully destroys, conceals or alters the personal directive or a document revoking the personal directive is guilty of an offence and liable to a fine of not more than $10 000.

1996 cP-4.03 s31

Offence

32 Any person who requires, as a condition for a person obtaining residential accommodation or for continued residence in residential accommodation, that the person make a personal directive is guilty of an offence and liable to a fine of not more than $10 000.

1996 cP-4.03 s32

Regulations

33 The Minister may make regulations

(a) repealed 2007 c37 s15;

(b) providing, for the purposes of removing doubt, that a matter is or is not a personal matter;

(c) prescribing matters for the purposes of section 1(l);

(d) respecting the designation of an agent by naming an office or position;

(e) prescribing matters for the purposes of section 15(e);

(f) describing the categories of persons to be contacted for the purposes of sections 19(2) and 24(2)(c);

(g) describing the categories of persons who must be served under section 26(1);

(h) respecting forms for the purposes of this Act.

RSA 2000 cP-6 s33;2007 c37 s15

Lieutenant Governor in Council regulations

34 The Lieutenant Governor in Council may make regulations

(a) defining words or expressions used but not defined in this Act;

(b) respecting the information that a maker must provide the Public Guardian under section 7.1;

(c) for the purposes of section 7.2, respecting the establishment of a registry, respecting the registration of information, including personal information, in the registry and respecting access to, disclosure of and use of that information;

(d) respecting the making of written declarations or determinations under sections 9 and 10.1, including the assessments that may be done by a person designated in

the personal directive, by an agent, by a service provider and by a psychologist or physician;

(e) respecting the establishment of an alternative dispute resolution process for the purpose of resolving complaints under Part 4.1;

(f) respecting investigations under Part 4.1.

2007 c37 s16

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