

## ***The Health Care Directives and Substitute Health Care Decision Makers Act, 2015***

*The Health Care Directives and Substitute Health Care Decision Makers Act, 2015* (Act) allows any person over 16 years of age, who has capacity, to make a health care directive for future treatment they may undergo. The Act also allows any person to appoint a proxy to make treatment decisions on their behalf should they become incapable. A proxy must be 18 years of age and must have the capacity to make health care decisions.

If an adult does not have a directive in place, has not appointed a proxy, and there is no personal guardian, the Act establishes a scheme of decision makers. The adult's nearest relative can make decisions respecting treatment, or if the adult is a member of a religious order, the ecclesiastical authority of the religious order designated in the Regulations may make a health care decision.

The nearest relative is the first available person in the following list:

- The Spouse or person with whom the person cohabits as a spouse in a relationship of some permanence;
- An adult son or daughter;
- A parent or legal custodian;
- An adult brother or sister;
- A grandparent;
- An adult grandchild;
- An adult uncle or aunt; or
- An adult nephew or niece.

A directive must be in writing and dated and signed by the person making the directive. If the person making the directive is unable to sign it, the directive must be in writing and dated and signed by one witness who is not the proxy or the proxy's spouse. A person may revoke a directive orally, in writing, by destroying the directive, or by making a new directive.

Where there are no relatives to provide consent to treatment, treatment may be provided where a treatment provider believes the treatment is needed, it is in an individual's best interests, and another treatment provider agrees in writing.

A substitute decision-maker, whether a proxy or a nearest relative, must act according to the patient's wishes. If he or she has no knowledge of the patient's wishes, the proxy or relative must act in what he or she believes to be the patient's best interests.

When a court is satisfied a proxy or nearest relative is not acting in good faith, the court may rescind any decision made and appoint another relative to make a health care decision, or may substitute the court's decision for the decision of the proxy.