



Representation Agreements & Fetal Alcohol Spectrum Disorder: Answers to Frequently Asked Questions

q: Do you have to be diagnosed with FASD before you can make a Representation Agreement?

a: No. Any BC resident who is 19 years or older (an adult) is presumed to be capable of making a Representation Agreement with standard powers. There is no assessment of capacity/incapacity involved.

q: Can an Aboriginal person on reserve make a Representation Agreement?

a: Yes. Aboriginal and non-Aboriginal people may make a Representation Agreement, regardless of status. Aboriginal people who are living on-reserve OR off-reserve may make a Representation Agreement. They must be an adult and must reside in B.C.

q: Can a youth make a Representation Agreement?

a: No. A person must be an adult (19 years or older) to make a Representation Agreement. The legal rights of parents or someone appointed legal guardian of a minor child end when a youth turns 19 years of age. However, it is a good idea to start preparations before the youth reaches 19 years of age. The youth may need to develop or re-establish trusting and supportive relationships. It also takes time to learn about Representation Agreements and the roles and duties of those who may be involved.

q: Many people with FASD do not have a strong connection to their biological family. Who can be a representative in this case?

a: Former foster parents or a former social worker or support worker may be an adult's representative. However, the Representation Agreement Act says that someone cannot be appointed as an representative/alternate if they are compensated for providing health or personal care services to the adult (e.g. home share provider). There is an except if the person is the adult's spouse, parent or child. When choosing a representative, important qualities to consider are someone whom the adult trusts, and who understands, knows, and respects the adult.

q: What if an adult cannot remember making a Representation Agreement?

a: It is possible to forget about making a Representation Agreement. This may be particularly true for adults who have memory problems due to FASD or other neurological conditions. There are a few ways to reduce this problem. Take photos or a video when the Agreement is being signed by the adult. Frame the photo or view the video once in a while. Review the process of making the Agreement and the purpose of it. The adult should keep a copy of the Agreement in his or her wallet or purse. Also, all professionals in the adult's life should know about or have a copy of the Representation Agreement.

Nidus also operates a centralized Registry, which keeps a copy of the Representation Agreement on file. The Registry issues a wallet card to the adult, which can also help be a reminder.

q: Can a Representation Agreement help an adult with decision-making in relation to the care of her or his children?

a: Yes. In a Representation Agreement, the adult may authorize their chosen representative(s) to help with decision making matters related to the care and education needs of his or her minor children. This is an authority that may be added to the Representation Agreement with standard powers. This additional authority is subject to additional requirements when making the Agreement.

If the adult wants to include the authority for 'making arrangements for the temporary care and education of minor children' in his or her Representation Agreement, the law requires that the adult understands what this authority involves and the effect of giving this authority to someone else.

q: Do you need to go to a lawyer or notary public to make a Representation Agreement?

a: No. A legal professional is not required. Nidus has lots of information and a Basic Representation Agreement form on its website. Go to www.nidus.ca - click on 'Helping a Relative with a Disability.'

Having a representative who can assist with parenting decisions can help prevent government authorities becoming involved in the care or protection of children. It also enhances the circle of support and safety for the children, as well as the adult.

q: Can a Representation Agreement help an adult who is involved in the Justice System?

a: Yes. 'Obtaining legal services and instructing counsel' is one of the authorities an adult may include in a Representation Agreement with standard powers. This authority enables the representative to assist the adult when talking with a lawyer or to instruct the lawyer on the adult's behalf.

In addition, the Representation Agreement Act also states that no one can prevent a monitor (if one is appointed in the Representation Agreement) from having access to the adult. This is helpful for checking on an adult who is in custody to ensure his or her well-being.

For adults with FASD, this information may be very important and relevant, since research has shown that many adults with FASD end up having involvement with the justice system.

CASE SCENARIO: GLORIA'S STORY

Gloria is 22. She has been diagnosed with FASD. Gloria went to the hospital because she was in pain for several days. She knows from past experience that she needs to get herself checked out when she is in pain, because sometimes she can't feel severe symptoms (e.g. pain), even when an illness or injury is serious.

The doctors were proposing tests. They were asking her questions about past medical procedures, allergies, current medications, etc. Gloria was very scared and was having difficulty concentrating. She also has short-term memory problems and cannot remember her medical history. Over time, Gloria was becoming more upset and started screaming and pushing people away. The staff physically restrained her and gave her medication to keep her calm but it has made her drowsy and her communication was confused.

Gloria's friend Sandy, who came with her to the hospital, was overwhelmed and very worried. Sandy called Francine, Gloria's former foster mom. Francine came to the hospital right away. While Francine can provide information to the medical team, they cannot provide information to her about Gloria because she is not related to Gloria by birth or adoption.

The hospital staff said that because Gloria was unable to give consent, someone needed to make decisions on her behalf. If there is no Representation Agreement in place and Gloria needs help making decisions or someone needs to decide on her behalf, the medical team must contact a spouse or a family member related by birth or adoption.

Francine explained that Gloria has very limited contact with her biological family and any contact has been due to Francine's initiative and effort. The medical team asked if there had been contact in the last 12 months. In fact, there had been; Francine had called the birth mom to say that Gloria's birthday was coming up and her mom sent a card. The medical team asked for contact information in order to call the birth mom to make a decision for Gloria.

Although Gloria's mom would care about her welfare, she would not know Gloria's medical history, nor her current medications. Gloria used to live with Francine and her family for 15 years. She now lives with a home share provider but is still close to Francine and her family. Francine has always gone to medical appointments with Gloria to help her understand and remember information. Francine knows Gloria's wishes and preferences for health care treatment.

In this situation, a Representation Agreement would enable Gloria to have someone who has longstanding knowledge of her preferences to assist her in decision making related to her health-related assessments and care.

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