

Making Changes to a Representation Agreement

This fact sheet discusses two types of changes to a Representation Agreement:

- 1) Changes to a person appointed in the Agreement (see below); and
- 2) Changes to contact information for the adult or other people named in the Agreement (see page 2).

1) CHANGES TO A PERSON NAMED IN THE AGREEMENT

Can I add another person or swap one person for someone else in an existing Representation Agreement?

NO. If you want to add a different person to a Representation Agreement, the adult needs to revoke (cancel) the existing Agreement and make a new one.

Only the adult can revoke their Agreement.

See the Nidus fact sheet for details on [Revoking a Representation Agreement](#). Click link or go to www.nidus.ca - click Information (top blue menu bar) > Representation Agreement > More RA Resources.

Don't forget to register the Notice of Revocation and the new Agreement—see the box on page 2.

Can someone resign from the Representation Agreement?

Yes, a person named in the Representation Agreement may resign. See the example in the box on this page about Chris' Agreement.

The Representation Agreement Act outlines the requirements for resigning. See the Nidus fact sheet on [Resigning from a Representation Agreement](#) at www.nidus.ca > Information > Representation Agreement > More RA Resources.

HOW FAMILIAR ARE YOU WITH THE REPRESENTATION AGREEMENT?

*Since this document is used when an adult is alive and in need of assistance, it is very important to understand what it means and how to use it effectively. See pages 3 and 4 for examples of different wording and how this can affect the role and authority of a representative **and/or** alternate.*

An Example

Chris' Representation Agreement names Larry as his representative, Sylvie is the alternate, and Jorge is the monitor.

Chris and Larry used to be good friends but they have grown apart. Chris is not comfortable with Larry being his representative. Chris is undergoing cancer treatments and can't think about making a new Agreement at this time. Larry agrees to resign as the representative. Fortunately, Chris named Sylvie as an alternate. If Chris needs help making decisions or managing his affairs, Sylvie will act as the representative. After his treatments, Chris plans to revoke (cancel) his Agreement and make a new Agreement with Sylvie as the representative, Jorge as the monitor and a new alternate.

What if the monitor resigns or dies or becomes incapable?

If you named a monitor in the Representation Agreement and the monitor dies, resigns, becomes incapable, or is unwilling or unable to act for some reason, you will likely need to make a new Representation Agreement.

Without a monitor, the representative may be unable to act for any areas of authority. In some cases the Agreement may state that the representative may act for certain areas of authority even if the monitor is unable to act. Check the wording in your Agreement. The law does not allow for naming a back-up monitor.

NOTE: A representative cannot give their authority to someone not already named in the Agreement as a representative or alternate. If there is no one else named in the Agreement who can act, the adult must make a new Agreement to give someone else authority. A monitor does not 'move up' to become a representative.

2) CHANGES TO CONTACT INFORMATION

Do we make a new Representation Agreement if there is a change to contact information?

No, you do not have to make a new Agreement due to a change of address or phone number or email address. These types of changes do not affect the validity of the Representation Agreement.

Follow these tips:

- Do **NOT** make changes on the original of the Representation Agreement as it may raise concerns. Use a sticky note or paperclip a sheet of paper with the new information.
- When you make new photocopies of the original, you can neatly cross out the old contact information and print the new contact info on the photocopies.
- One of the purposes of the **Personal Planning Registry** is to provide a way to keep contact information up-to-date. See the box below.

What if the adult or a representative, alternate or monitor changes his or her legal name?

A legal name change does not affect the validity of the Agreement. If someone named in the Representation Agreement changes his or her legal name after the Agreement is made, attach a copy of the legal paper that confirms the name change. You can request a name change to information in the Registry by contacting registry@nidus.ca

Updating your Record in the Personal Planning Registry

You can update contact information for a record in the Registry such as changes of addresses, phone numbers, emails, and location of your original Agreement. There is no cost.

You cannot use the Registry to change who is named in the Agreement. As discussed on page 1, you need to legally revoke the existing Agreement and make a new one. Then you can register the revocation and the new Agreement.

Read how-to-instructions for registering a revocation and for editing contact information. Go to www.nidus.ca - click Registry (top blue menu bar) > [Registry Instructions](#)

Answers to some frequently asked questions

Q The monitor named in the Representation Agreement died. I have someone else who is willing to be the monitor. Can we just get them to fill out a new Certificate of Monitor?

A NO. The adult needs to revoke the old Agreement and make a new one—see page 1. Making a new Agreement is the best option for naming a new monitor.

If the adult is not able to make a new Agreement (perhaps the adult is unconscious), a representative may ask the Public Guardian and Trustee to appoint someone as a monitor. If the PGT declines to appoint a monitor or if the representative disagrees with the PGT's choice, the representative may apply to Court for a different decision. A judge can support the PGT's decision, appoint someone else or decide a monitor is not required.

Q My representative was my spouse but we are now legally separated. Do they need to resign or do I need to make a new Agreement?

A It depends. The Representation Agreement Act says that a Representation Agreement is automatically ended if the representative is your spouse and your marriage or marriage-like relationship breaks down. If you named an alternate or another representative who can act, the Agreement might continue — it will depend on the wording in the Agreement.

Your Agreement may include specific wording to state that your spouse's authority as representative may still continue even if your marriage breaks down. Check the wording in your Agreement. (If the Agreement was made before September 1, 2011, an Agreement with this wording must have a Certificate of Consultation signed by a lawyer.)

CHECK WORDING IN THE AGREEMENT

The Representation Agreement Act outlines certain requirements for making a valid Representation Agreement. As with any legal document, the law provides some options for the set-up of roles and authorities. Nidus has had the most experience with Representation Agreements (since 1992) as some members were involved in creating the legislation, producing the first forms for the public to use, and learning from people's experiences about best practices and effective use. Following are some examples that we hope will help those named in a Representation Agreement better understand their roles and authorities.

If there is more than one representative, how are authorities shared?

“I appoint my brothers Fred Duke and Bruce Duke to be my representatives. I authorize them to... [lists authorities that both representatives share].”

The quote above is wording from an existing Representation Agreement. Only two representatives are named and the Agreement does NOT say how the brothers are to share their authorities.

The Representation Agreement Act says that if the Agreement does not state how authorities are shared, then the representatives **MUST ACT UNANIMOUSLY** (jointly). This satisfies the extra safeguard requirement for finances (see next page) if it is a Representation Agreement under section 7 (RA7), but having to act jointly may not be helpful for other authorities in an RA7 or for a Representation Agreement under section 9 (RA9).

Health care can be urgent and one representative might be on vacation or out of cell phone range, but the wording in the Agreement requires both representatives to act together before a doctor can proceed. The adult might be in pain or need consent for a test. Also, the requirement to act jointly means that if one of the representatives dies, the entire Agreement ends.

What to do? Read the complete Agreement—it is important that representatives know what powers the Agreement authorizes as well as the conditions for exercising these. If there is need for a change, the adult could revoke (cancel) the existing Agreement and make and register a new one with forms provided by Nidus.

If there is an alternate named, when can they replace a representative?

“I name the following person to be my representative: _____

If my representative

- dies,
- resigns in accordance with the Representation Agreement Act,
- is my spouse, as defined in the Representation Agreement, at the time that I make this Representation Agreement, and our marriage or marriage-like relationship subsequently terminates as set out in the Representation Agreement Act, or
- becomes incapable,

then I name the following person to be my alternate representative: _____

A statutory declaration made by me [the adult], my representative, or my alternate representative (if one is named) declaring that one of the circumstances referenced in the Agreement has occurred, and specifying that circumstance, is sufficient evidence of the authority of my alternate representative to act in place of my representative.”

The above is from a Representation Agreement form provided by the BC government published on September 1, 2011. It is included in the Ministry of Health My Voice booklet. You will note that an alternate can only move up in four circumstances—these are all permanent events. These do not allow for a temporary absence by the representative such as vacation, being ill or injured, out of cell phone range, in a meeting at work...

CHECK WORDING IN THE AGREEMENT

Continued from page 3— comments related to conditions on how the alternate can replace a representative...

The wording in the government form requires a statutory declaration to be completed before an alternate may act. This is not required by the law, it is a convention that lawyers often use for other legal documents. It was not designed with quality-of-life issues in mind or the principle of accessibility.

You cannot complete a statutory declaration in advance. You have to wait until one of the four circumstances listed in the Agreement has occurred. The declaration provided must be completed by a BC lawyer or notary public or someone authorized for taking affidavits. These professionals will not be available to witness the declaration at 3:00 am during a health crisis...

What to do? Read the wording in the entire Agreement. Does it protect the adult if the representative is unable to act for a reason other than the ones listed or in a health care emergency? If there is need for a change, the adult could revoke (cancel) the existing Agreement and make and register a new one with forms provided by Nidus.

If the Agreement includes authority for finances, how is the extra safeguard requirement met?

“I name the following person to be my representative _____.

I name the following person to be the alternate representative _____.

I am not naming a monitor because I trust the representative (my son).

The representative has authority to assist me or to make decisions on my behalf for routine management of financial affairs....”

The quote above is for an Agreement that DOES include authority for finances but it does NOT meet the extra safeguard requirement and therefore is NOT valid for finances. Depending on the wording in the Agreement, it also may not be valid for other authorities without the extra safeguard.

An extra safeguard is required for financial authority, UNLESS:

- The representative is the adult’s spouse [but if there is an alternate, the Agreement will need the extra safeguard for the alternate] ; or
- The Agreement was signed before September 1, 2011 and the adult consulted with a lawyer who completed a Certificate of Consultation (Form 2), which must be attached to the Agreement.

How to meet the extra safeguard requirement?

- Name someone in the Agreement as a monitor; or
- Name at least two representatives who must act jointly for finances (this is not the specific legal wording— but is an indication of the requirement. The idea is that they ‘monitor’ each other).

The extra safeguard requirement is part of the law. It is not based on whether you trust the representative or not. You must follow the requirements of the Representation Agreement Act.

What to do? The wording above is not effective for financial authority. Read the entire Agreement to determine if the Agreement is effective for other authorities. If there is need for a change, the adult could revoke (cancel) the existing Agreement and make and register a new one with forms provided by Nidus.

WHERE TO FIND FORMS BY NIDUS?

See the next page about more resources and Representation Agreement forms provided by Nidus.

RESOURCES AND FORMS PROVIDED BY NIDUS

Because Representation Agreements are used when someone is alive and needing assistance, they are important to quality-of-life matters. Nidus provides information and Representation Agreement forms on its website for self-help. No legal professional is required for making a Representation Agreement.

The people most affected—the adult, representative, alternate, and monitor (if named) need to take the lead in the process!

Self-help takes time and effort. Getting informed is essential to best practice—not only in the process of making the Agreement but also in how the Agreement is used.

The BC law is complex. There are different types of Representation Agreements depending on the adult’s mental capability to ‘understand’ at the time of making their document.

Where to find Representation Agreement forms by Nidus?

Go to www.nidus.ca — click on the photo/heading at the home page that matches the situation.

How to register with the Personal Planning Registry?

The Personal Planning Registry is for registering a completed Representation Agreement and/or other important information and documents you or others might need in case of a health crisis OR an evacuation from a disaster. The Registry is secure and private with 24/7 access. YOU stay in control!

Click **Registry** (top blue menu bar)
> [Registry Instructions](#)

Be sure to read the instructions to avoid mistakes and extra costs. You can search for an existing Registry Account before setting up a new one as each person should only have one Registry Account.

The Registry is online. Do NOT mail any paperwork to Nidus.

Step one—create a Registry Account;
Step two—make a registration from *Registration Options*.

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<i>Helping a Relative with a DISABILITY</i>	<i>I'm planning on the FUTURE PATH</i>	<i>Caring for an Adult Who NEEDS HELP NOW</i>
Helping an adult with a disability from birth or childhood? Info & Forms for RA7 <i>Adult may make even if considered incapable to understand due for e.g. to 'special needs', brain injury in childhood.</i>	Are you considered capable now and want to prepare? Info & Forms for health & financial <i>For those capable of understanding now—don't wait for a crisis!</i>	Are you helping someone whose mental capability was affected in adulthood? Info & Forms for RA7 <i>Adult may make even if considered incapable to understand, due for e.g. to severe stroke or advanced dementia.</i>
Click FIRST photo	Click MIDDLE photo	Click THIRD photo

Where to find more resources from Nidus?

Getting informed is not only important for people who are ‘making’ their documents, but equally or perhaps even more important for those appointed in them!

Go to www.nidus.ca

Click **Information** (top blue menu bar) >
Representation Agreement
> [RA Overview](#)
> [More RA Resources](#)

Click **Get Help** (top blue menu bar)
> [Videos](#)
> Discussion Tools > [Values & Beliefs Discussion Guide](#)