

Representation Agreements in BC for Health Care

This fact sheet is about Representation Agreements in BC and their role in authorizing an individual(s) to help with decisions about health care.

Representation Agreements are legal documents and are governed by BC's Representation Agreement Act and the Representation Agreement Regulation.

Health care consent is governed by BC's Health Care Consent and Care Facility Admission Act and the Health Care Consent Regulation.

These laws are based on a set of principles including the principle of self-determination. These laws came into effect in February 2000. Since that time there have been some amendments (changes) to the laws.

What is a Representation Agreement?

A Representation Agreement is an **essential legal planning document for health care matters**. It is the only way in BC to choose and authorize your decision maker for health care. A representative has authority to help you make your own decisions, assist you with decisions or, if necessary, make decisions on your behalf. See diagram on page 2 for decision making continuum.

A Representation Agreement also covers **personal care matters**, which are often closely related to health care. For example, diet preferences fall under personal care. However, care staff of a health authority may do an assessment, such as for someone with Parkinson, and make a report for liquids to be thickened and food to be pureed to assist with swallowing. Now, food and diet have become health care matters.

Who may make a Representation Agreement?

The requirements to make a Representation Agreement under BC law are:

1. **Age** - you must be 19 years or older. In BC, the age of adulthood (age of majority) is 19 years.
2. **Mental capability** - BC's Representation Agreement Act has two definitions for mental capability. The intent is to provide accessibility and inclusion — ALL adults should get help as needed.
 - Traditional definition of capability - must understand the nature and effect or consequences of decisions or a legal document at the time of making them.

This applies to contracts, types of power of attorney, getting married, Wills, an Advance Directive, a Representation Agreement section 9 (RA9).

- RA7 definition of capability - the Representation Agreement Act has a different and new definition of capability. It enables an adult to make a Representation Agreement section 7 (RA7) even if they cannot make their own decisions or manage their own affairs and even if their capability to 'understand' may be in question.

*You can read details of this new definition in the [RA7 fact sheet](#) (see *More information from Nidus on page 2*).*

We are very fortunate in BC to have the RA7 as a legal alternative to adult guardianship (called Committeeship in BC) - it avoids stigmatizing adults who need assistance managing their affairs and/or making decisions. It is about human rights - respect and dignity for everyone.

Before the RA7, if an adult did not meet the traditional capability requirements and they needed help with decisions or managing their affairs, a spouse, parents, other relatives, or a friend had to apply to the Supreme Court of BC for adult guardianship/Committeeship to get authority to help. Not only is the procedure expensive (\$5,000 - \$7,000) and time consuming (3 or 4 months), it takes away the rights of the adult (some call it civil death) and, legally, the adult becomes a non-person.

What type of Representation Agreement do I make?

There are two types of Representation Agreements that cover health care matters — an RA9 and an RA7. Do NOT make both.

In deciding which one to make, the place to start is with the capability requirements.

The RA7 has a new and different definition of capability/incapability. You can help an adult make an RA7 even if a health care provider (including a psychiatrist) has determined the adult is incapable. You can help an adult make an RA7 even if they do not meet the traditional definition of capability. See [RA7 fact sheet](#).

However, if you meet the traditional capability requirements Nidus recommends that you make an RA9. It can be used when your capability comes into question due to an illness or injury. See [RA9 fact sheet](#).

Who makes an RA7?

Some adults do not meet the traditional capability requirements to make an RA9. They may make an RA7.

For example, an adult with a disability from birth or childhood (sometimes called special needs) may not be able to show that they ‘understand.’ These adults may make an RA7. Parental rights end when a son or daughter turns 19, but if the individual still needs help making decisions and managing their affairs, the RA7 is a way that parents, siblings and friends can continue to provide support and to enable self-determination.

Adults with advanced dementia or who have experienced a serious stroke may also make an RA7 to get help from those they trust and who know them and their wishes and values.

How do we make a Representation Agreement?

A legal professional is not required for making a Representation Agreement (RA9 or RA7) and no medical assessment is required.

Nidus has been helping people learn about and make Representation Agreements since the beginning. Nidus provides Representation Agreement forms (for RA9 and RA7) on its website along with other resources.

Who is Nidus?

The name Nidus is a Latin term for nest: a symbol of support and safety.

Nidus is a non-profit charitable organization that was set up in 1995 by seniors and disability groups, to be a **Resource Centre** on BC’s new laws to reform adult guardianship. The Resource Centre provides information and Representation Agreement forms.

In 2002, the Nidus Resource Centre launched the online **Nidus Registry** to help with communication. The Nidus Registry is a place to store important information and documents and make them available when needed.

BC legislation for health care consent says that a health care provider only has to make reasonable effort to find an existing authority — some believe this should be made a legal duty. This is one of the reasons for developing a Registry service.

Many people use the **Nidus Registry** in case of a health crisis or other emergency (wild fire, flood, earthquake, tsunami).

More Information from the Nidus Resource Centre

Go to www.nidus.ca > Information (top menu bar):

> **Representation Agreements**

- RA7 Fact Sheet
- RA9 Fact Sheet
- Other resources related to Representation Agreements.

> **Health Care Consent**

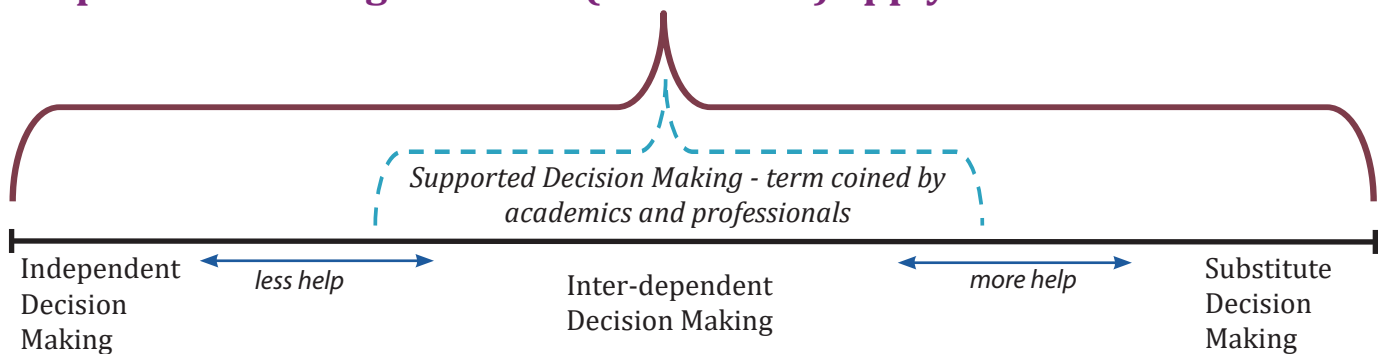
- How Health Care Decisions are Made in BC if You are Incapable of Informed Consent
- Role and Scope of Authority of a TSDM for Health Care Consent in BC
- Duty for Notice When a TSDM is Selected for Major Health Care in BC
- Giving Consent to A Plan for Minor Health Care in BC
- Advance Directives in BC
- Adult Guardianship/Committeeship in BC

To view legislation and regulation

Go to www.bclaws.ca > Laws of BC > Public Statutes and Regulations > click on the letter for the legislation:

- R > Representation Agreement Act (see Regulation)
- H > Health Care Consent and Care Facility Admission Act (see Health Care Consent Regulation).

Representation Agreements (RA7 & RA9) apply across the continuum



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