Making and Registering a Representation Agreement
Section 9

Self-Help Preparation Guide
WHO IS NIDUS?

The Nidus Personal Planning Resource Centre is a non-profit charitable organization in B.C. We promote personal planning, particularly as an alternative to adult guardianship. Nidus is a Latin term for nest: a symbol of support, safety and self-development.

Nidus was established in 1995 by citizens and community groups who were involved in a grass-roots law reform process to create the Representation Agreement Act.

Since the Representation Agreement Act of B.C. came into effect in February 2000, Nidus has been helping adults throughout the province to make and register Representation Agreements under Section 7 and Section 9.

Nidus also operates the Personal Planning Registry – a centralized Registry service for planning documents. You can store information about your plans and a copy of an existing document. The Registry helps you keep organized: it’s convenient and provides safe and accessible management. The Registry makes your plans available to those you authorize – so your wishes are known and honoured.

PURPOSE OF THIS RA9 PREPARATION GUIDE

This Preparation Guide provides information on Representation Agreements with Section 9 Broader Powers (RA9) to help you determine if such an Agreement fits your situation.

The Guide describes the different RA9 forms available from Nidus and how to obtain the one you want. You will also find details on how to register your completed document.

Nidus provides the following types of forms, which are explained in the Guide:

- **Basic** RA9 form – available to download for free from the Nidus website.
- **Custom** RA9 forms – available online for a fee of $75.00, which includes registration with the Personal Planning Registry.
- **Special Request** RA9 form – further customization of the RA9 is available. There is an initial, non-refundable fee of $25.00 fee for a phone appointment to discuss the request. The fee for the form is a minimum of $75.00.

This Guide concerns legislation in the province of British Columbia

This Preparation Guide includes links to other resources. Read the Guide online or print a copy and follow directions to locate the resources on the website.

Some Internet browsers will not open links to a document in PDF format. As an alternative, we have provided directions on how to locate the resource on our website.

**NOTE:** The information in this Guide only applies to a Representation Agreement with Section 9 broader powers. Nidus has other materials, which explain different personal planning documents.

The wording in this Preparation Guide is not intended to be used to create a Representation Agreement form. It is for information only.
Get informed about the RA9 and discuss it with those who may be involved.

Select the RA9 form that fits your situation.

Complete the form and arrange for witnesses. Follow instructions for signing.

Register your completed RA9 with the Nidus Personal Planning Registry™
www.nidus.ca/registry
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Nidus RA9 Form Chart
GET INFORMED

The first steps to making a Representation Agreement are to gather information and discuss it with those who may be involved.

**New to Personal Planning?**
Read the Nidus Guide *Stay in Charge of Your Life*. It provides an overview of the legal planning tools available in British Columbia and explains the capability requirements of each. The Guide also explains the default scheme if there is no legal plan in place.

Go to www.nidus.ca—Self-Help—Planning Guide and scroll down to the link at *Stay in Charge of Your Life*.

**New to Representation Agreements?**
Nidus has three fact sheets on Representation Agreements:
1. Overview fact sheet
2. Representation Agreement Section 7 - RA7 fact sheet
3. Representation Agreement Section 9 - RA9 fact sheet

These are all available at www.nidus.ca—Information—Representation Agreement—Fact Sheet.

**NOTE:** Please make sure you have read the Nidus fact sheet on the Representation Agreement Section 9. It gives examples of situations when this type of Agreement applies.

Go to www.nidus.ca—Information—Representation Agreement—RA9 Fact Sheet.

**Following the RA9 Path - You Are Here!**
You may recognize this diagram from the Nidus Guide to Personal Planning: *Stay in Charge of Your Life*, referred to above, under 'New to Personal Planning?'
## FREQUENTLY ASKED QUESTIONS

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<tr>
<th>Question</th>
<th>Answer</th>
</tr>
</thead>
<tbody>
<tr>
<td>Can I write my own Representation Agreement? Will Nidus review it for me?</td>
<td>There are many legal requirements you must meet in order to make a valid Representation Agreement. Nidus does not teach people how to draft their own Agreements and Nidus does not review Agreements others have prepared. Nidus provides its own legal forms which are explained in this Guide.</td>
</tr>
<tr>
<td>Do I have to take the Nidus Representation Agreement form to a lawyer or a notary public?</td>
<td>No. A Representation Agreement does not require the signature of a lawyer or notary public. It does require two witnesses but they do not have to be legal professionals. Of course you may go to a legal professional, but be prepared that a lawyer or notary public generally does not sign a Representation Agreement unless he or she has prepared it. To find a lawyer, call Lawyer Referral Service at 604.687.3221 or 1.800.663.1919. To locate a notary public near you, contact the Society of Notaries Public of B.C. at 604.681.4515 or 1.800.663.0343 or search at <a href="http://www.notaries.bc.ca">www.notaries.bc.ca</a>.</td>
</tr>
<tr>
<td>Is there a fee to register the Representation Agreement?</td>
<td>Yes. The fee to register with the Personal Planning Registry is $25.00. If you sign up for a Nidus Custom Form, the Registry fee is included in the fee for the Custom and Special Request RA9 Forms. You will read more about this later in the Guide.</td>
</tr>
<tr>
<td>Does a Representation Agreement Section 9 cover financial affairs?</td>
<td>No, the RA9 does NOT include financial affairs. To cover financial affairs, you can make an Enduring Power of Attorney OR a Representation Agreement with Section 7 routine finances. For more information, go to <a href="http://www.nidus.ca">www.nidus.ca—Self-Help—Making EPA—Planning for the Future: RA7 or EPA for financial and legal affairs</a>.</td>
</tr>
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## CAPABILITY REQUIREMENTS

A Representation Agreement under Section 9 is for adults who can make their own health care and personal care decisions now, but want to plan in case they need assistance with these matters in the future due to an illness or injury.

You must understand the powers and authorities covered under Section 9 and the effect of giving these powers to your representative. It is important to note that the Representation Agreement Act says that the way an adult communicates is not a factor in determining if someone is capable of meeting the Section 9 requirements.

If you are assisting an adult who does not meet the requirements for making a Section 9 Agreement, see the Nidus Preparation Guide for Representation Agreements with Section 7 Standard Powers. Go to [www.nidus.ca—Self-Help—Making RA7—RA7 Preparation Guide and Forms](http://www.nidus.ca).
REVIEW EXISTING ARRANGEMENTS

Check to see if there are any documents already in place.

Do you have an existing Representation Agreement?
Making a new Representation Agreement does not automatically revoke a previous one. You may need to revoke (cancel) your existing Agreement before making a new one.

If you make a Representation Agreement Section 7 to cover routine financial and legal affairs, you may want to keep it in place as the RA9 will only deal with health and personal care matters. You have two Representation Agreements but they cover different areas of authority.

Generally, you would not want to have two Agreements that cover the SAME areas of authority. This can be confusing for those you appointed and third parties when they try to use it.

The law outlines specific procedures for revocation. See the Nidus fact sheet and form on Revoking a Representation Agreement at www.nidus.ca—Information—Representation Agreement—Resources—Revoking an RA.

Do you have an Enduring Power of Attorney?
An Enduring Power of Attorney only covers financial and legal affairs. It does NOT cover health and personal care. You do not need to revoke (cancel) an Enduring Power of Attorney before you make a Representation Agreement Section 9. The two documents complement one another. You will want to consider whether to appoint the same people in both documents to provide continuity.

Do you have an Advance Care Plan?
If you have an Advance Care Plan, Living Will or other written document which expresses your values, wishes and preferences about care, it will be a supporting document to your Agreement. Give a copy to your representative. Their legal duty is to follow your wishes and values (not their own). You can also register these other documents with the Nidus Personal Planning Registry.

Do you have an Advance Directive?
If you have made an Advance Directive according to the requirements of the legislation in effect on September 1, 2011, you will decide if it will be a supporting document to your Representation Agreement or not.

- If you want the Advance Directive to stand alone from your Representation Agreement, the law says that you can write a statement in your Representation Agreement that a health care provider does not have to consult your representative for health care matters covered in your Advance Directive. (Note: this would be a Nidus Special Request RA9 Form.)
- If you want your Advance Directive to be a supporting document to your Representation Agreement, you will not include a statement as described above. This means the instructions in your Advance Directive are binding on your representative when they act on your behalf. They must carry out your instructions and wishes.


Q - If I make a Representation Agreement, do I have to make an Advance Care Plan, Living Will or Advance Directive?
A - No. All planning documents are optional. A Representation Agreement is more comprehensive than an Advance Directive or an Advance Care Plan or a Living Will. If you make one of these other documents, they can accompany your Representation Agreement.
What an RA9 Includes

ROLES TO APPOINT

The person the Agreement belongs to is called the ‘adult’. You must be nineteen years of age or older to make a Representation Agreement. (Nineteen is the age of majority in British Columbia.)

There are three roles you can appoint in a Representation Agreement. Any person appointed in one of these roles must be at least 19 years old at the time the Agreement is signed.

You will find the fact sheets on the legal responsibilities required for each role at www.nidus.ca—Information—Representation Agreement—Resources.

**Representative** – this is the person who has the legal authority to act on your behalf.

*You may name more than one representative. If you do this, you will need to decide if your representatives may act independently or must always act together.*

Representatives have legal duties they must follow. Please see the Nidus fact sheet ‘Role of a Representative’

**Alternate representative** – this is the back-up person who will replace the representative(s) if she or he is temporarily or permanently unable or unwilling to act.

*Naming an alternate is optional. You may name more than one alternate. If you do this, you will need to decide if all alternates will move up to replace the representative(s) at the same time or if they will move up one at a time, in order.*

Alternates also need to agree to the duties of a representative and should read the fact sheet mentioned above.

**Monitor** – this person is a safeguard and an extra support. Although your monitor cannot make decisions on your behalf, they are there to ensure your representative is following his or her duties.

*Appointing a monitor is optional, but some adults choose to name a monitor anyway. A monitor is particularly helpful when there are many people involved, in the case of a blended family, or if there is an existing conflict among family members or with professionals.*

*For more information on the role and legal duties of the monitor, please read the Nidus fact sheet ‘Role of a Monitor’.*

**Who can be appointed?**

Most people will appoint a spouse, family member or friend. You must appoint a person; you cannot appoint an organization.

There are some restrictions on who you can appoint. The Representation Agreement Act says that you can **NOT** appoint a person as a representative or alternate if:

- They receive compensation to provide health care or personal care services to you (the adult).
- They are an employee of a facility in which you live and receive health care or personal care services.

The restrictions above do not apply if the person is your spouse, parent or child.

Please also note that the Community Care and Assisted Living Act restricts an owner, operator, employee, contractor or volunteer of a licensed facility (including extended care facility and community living agency) from acting as a representative for a person in care or formerly in care. If any of the people are your spouse, parent or child, this restriction does not apply.
Q - If two representatives share the same areas of authority, do they have to make decisions jointly?

A - It depends on the wording in the Agreement. If the Agreement states that they 'may act independently,' this means one or both may act. If the Agreement states that they 'must act together,' they must always act jointly – a treatment cannot proceed unless both representatives have given the okay. This might require both to sign a consent form.

Most people who name more than one representative want the representatives to be able to act independently in order to avoid delay in medical treatment, especially if you might be in pain.

The Representation Agreement Act says that if the Agreement does not specify how representatives will act, then they must act together (jointly).

The Basic RA9 Form only names one representative. Some of the Nidus Custom RA9 Forms name two representatives who may act independently. If you want wording for 'must act together' you will need a Special Request RA9 Form. The Nidus RA9 Form Chart at the end of this guide shows the role set-ups available in the Basic and Custom RA9 Forms.

Q - Can my representative appoint someone else in their place if they find they cannot continue to act as my representative?

A - No, you need to appoint the people you want as representative and alternate at the time you make your Agreement. Your representative cannot appoint a replacement for themselves.

Your representative also cannot delegate their authority to anyone else. For example, your representative might ask a friend to drive you to a doctor’s appointment. If the doctor is recommending a treatment and you are incapable of consent, the friend cannot consent on your behalf; the doctor needs to get consent from the representative.

If your representative cannot continue, they can resign and your alternate can then act as the representative.

**DUTIES OF REPRESENTATIVES/ALTERNATES**

The duties of a representative are based on the principle of self-determination. The duties provide an ethical decision making framework that requires your representative to consult and follow your wishes, values and beliefs – not their own – according to a specific hierarchy.

When making decisions on your behalf, a representative must check with you first to determine your **current wishes**, and must comply with them. If the current wishes cannot be determined or are not reasonable to follow, then any pre-expressed wishes must be followed – that is, things that you said or wrote down when you were capable. If these are unknown, then decisions are made according to your values and beliefs. Only as a last resort does a representative impose their opinion and decide what they think is best for you.

The law allows you to state in the RA9 that your representative does not have to comply with your current wishes; they only need to follow your pre-expressed instructions and wishes. If you want to include this in your Agreement, you will need a Special Request RA9 Form. The duty to consult and comply with current wishes, if reasonable, is intended as a safeguard.

Nidus explains the duties of a representative in our fact sheet Role of a Representative. The duties as outlined in the Representation Agreement Act are provided on the next page.
Following are the duties of a representative from Section 16 of the Representation Agreement Act of BC

(1) A representative must
   (a) act honestly and in good faith,
   (b) exercise the care, diligence and skill of a reasonably prudent person, and
   (c) act within the authority given in the representation agreement.

(2) When helping the adult to make decisions or when making decisions on behalf of the adult, a representative must
   (a) consult, to the extent reasonable, with the adult to determine his or her current wishes, and
   (b) comply with those wishes if it is reasonable to do so.

(2.1) Subsection (2) does not apply if
   (a) a representative is acting within authority given to the representative under section 9, and
   (b) the representation agreement provides that in exercising that authority the representative need only comply with any instructions or wishes the adult expressed while capable.

(3) If subsection (2) applies but the adult’s current wishes cannot be determined or it is not reasonable to comply with them, the representative must comply with any instructions or wishes the adult expressed while capable.

(4) If the adult’s instructions or expressed wishes are not known, the representative must act
   (a) on the basis of the adult’s known beliefs and values, or
   (b) in the adult’s best interests, if his or her beliefs and values are not known.

(5) On application by a representative, the court may exempt the representative from the duty under subsection (3) to comply with any instructions or wishes the adult expressed while he or she was capable.

(6) Subject to subsection (6.1), a representative may not delegate any authority given to the representative in the representation agreement.

(6.1) A representative may delegate to a qualified investment specialist, including a mutual fund manager, all or part of the representative’s authority with respect to investment matters.

(7) If a representative makes health care decisions on behalf of an adult and the representative must, under subsection (4)(b) of this section [above], act in the adult’s best interests, section 19 (3) of the Health Care (Consent) and Care Facility (Admission) Act applies.

[Sec. 19 (3) says: “When deciding whether it is in the adult’s best interests to give, refuse or revoke substitute consent, [you] must consider: (a) the adult’s current wishes, and known beliefs and values,(b) whether the adult’s condition or well-being is likely to be improved by the proposed health care,(c) whether the adult’s condition or well-being is likely to improve without the proposed health care,(d) whether the benefit the adult is expected to obtain from the proposed healthcare is greater than the risk of harm, and(e) whether a less restrictive or less intrusive form of health care would be as beneficial as the proposed health care.”]

(8) A representative must
   (a) keep accounts and other records concerning the exercise of the representative’s authority under the representation agreement, and
   (b) produce the accounts and other records for inspection and copying at the request of any or all of the following:
      (i) the adult;
      (ii) the adult’s monitor;
      (iii) the Public Guardian and Trustee.

(9) A representative who is authorized to do anything referred to in section 7 (1) (b) [routine management of the adult’s financial affairs] must keep the adult’s assets separate from the representative’s assets.

(10) Unless the representation agreement provides otherwise, subsection (9) does not apply to assets that
      (a) are owned by the adult and the representative as joint tenants, or
      (b) have been substituted for, or derived from, assets that were owned by the adult and the representative as joint tenants.

(11) [Not in force]

(12) A person who, on the death of an adult, will be or might be a beneficiary of the adult’s estate does not, for that reason, have a conflict of interest with the adult.
AREAS OF AUTHORITY TO COVER

The intent behind a Representation Agreement with Section 9 broader powers is that you can give your representative as much authority as possible to act on your behalf for health care and personal care matters – whatever the circumstances.

Giving someone authority is not the same as instructing them to take a particular action. For example, you can give your representative the authority with respect to Electroconvulsive Therapy (ECT – ‘shock’ treatment). This does not mean you want your representative to give you ECT. It means that if this treatment is offered and you are incapable, your representative will be involved in the decision on your behalf.

When you have gaps in authority, decisions are made according to other laws and policies.

You will find a detailed explanation of the authorities covered in the Basic and Custom RA9 Forms starting on page 10.

Q - Can I assign different authorities to my representative?

A - Yes. If you appoint more than one representative, you can assign them different areas of authority or the same areas. Most people assign the same areas of authority to both representatives as it makes things simpler. In practice, one could ‘take the lead’ for health care authorities, and the other could ‘take the lead’ for personal care authorities.

AUTHORITIES THAT ARE NOT COVERED

The following authorities cannot be included in a Representation Agreement.

- A representative cannot be given authority to consent to consultation, treatment or care related to the sterilization of an adult for non-therapeutic purposes.
- A representative cannot be authorized to do anything that is against the law – for example, euthanasia or assisted suicide.

The Representation Agreement Act says that if the Mental Health Act is used, it overrides your Agreement and your representative's authority with respect to the mental disorder.

- The Mental Health Act is for situations when someone is considered a danger to him/herself or others. This may be due to an episodic mental illness such as manic-depression. It can also happen with dementia.
- If you are involuntarily detained under the Mental Health Act, the medical team will take over decision making with respect to the treatment of your mental disorder and where you will stay (placement). Your representative can still make decisions with respect to treatment and care that are not related to the mental disorder – for example, a broken leg, high blood pressure, chemotherapy.
- Giving your representative the broadest health and personal care authority possible is a way to avoid use of the Mental Health Act. See the Custom RA9 Form section on page 10.
- The Community Legal Assistance Society believes the Mental Health Act override is unconstitutional and open to a Charter challenge. If a case comes forward, Nidus would report any such action in our newsletter. You can sign up for Nidus News at the Nidus website.
RA9 Forms Available from Nidus

SELECTING THE FORM THAT FITS

Nidus offers three types of RA9 forms:

- **Basic RA9** – with basic RA9 authority (see page 10) for naming two people: 1 representative and 1 alternate.
- **Custom RA9** – basic and additional RA9 authorities (see page 10) for naming one person, two people or three people in the roles of representative and alternate.
- **Special Request** for Custom RA9 Form – further customization of the RA9 to address special situations not covered by the Basic and other Custom Forms.

**Q** - I understand the provincial government produced RA9 forms. What is the difference between the government forms and Nidus forms?

**A** - The forms produced by the Ministry of Attorney General and Nidus are optional. There is no required format for a Representation Agreement.

The Nidus **Basic** RA9 Form covers the same authorities as the Ministry's form. However, there are important differences between the Nidus and the Ministry forms. The differences are: 1) when an alternate may act and 2) how this is confirmed.

1) The wording on the Ministry form does not take into account that a representative may be unable to act on a temporary basis. For example, if the representative goes on vacation or the representative is also the caregiver and needs a short break (respite). Nidus knows these are common scenarios, therefore the Nidus form uses wording to allow for situations where a representative may be temporarily or permanently unable to act or continue to act.

2) The Ministry uses a Statutory Declaration Form as the way to confirm that an alternate may act. The statutory declaration must be signed by a lawyer or notary in B.C. This adds cost and complexity to the process and is not very practical for sudden or urgent health care situations.

Nidus uses a Confirmation of Substitution Form to confirm when an alternate may act. Nidus has used this approach, on the advice of a lawyer, since 2000 when the Representation Agreement Act came into effect. Nidus provides the confirmation form on its website, which you can access at any time you need it. A link is provided on page 16.

**BASIC RA9 FORM**

The Nidus **Basic** RA9 Form is available free for download on the website. There is a $25 fee to register the completed form. The Basic RA9 gives your representative authority to do whatever they consider necessary in relation to:

Health Care, including:

- Giving, refusing or withdrawing consent to minor and major health care, including medications, immunizations, surgery, dialysis, chemotherapy, and any care requiring general anesthetic.
• Giving consent to health care you wanted when well, but refuse to give consent to at the time the health care is provided. This is for instances where your refusal is due to impaired perception or judgment. This can happen, for example, if you suffer an episodic mental illness, dementia, addiction, or delirium.

• Refusing care that is necessary to preserve your life (life support).

Personal Care, including:
• Diet, grooming, and exercise.
• Taking part in activities.
• Obtaining licenses and permits.
• Personal safety issues.
• Making living arrangements, including admission to a care facility.
• Physically restrain, move or manage you, or to authorize someone else to do these things, despite your objections.

CUSTOM RA9 FORM

The intent of the Nidus Custom RA9 Forms is to provide greater coverage, flexibility and avoid gaps in your plan. The content of the Nidus Custom Forms is based on our experience and research helping people to make RA9’s since 2003.

The Custom Form includes the authorities covered in the Basic RA9 Form (above) AND the following:

• Granting your representative authority to give, refuse or withdraw consent to the following less common medical procedures. These are listed in the Regulation for the Health Care (Consent) and Care Facility (Admission) Act and may be amended (changed) from time to time. The current list is:
  ○ Electroconvulsive therapy (ECT - ‘shock’ treatment)
  ○ Abortion
  ○ Experimental health care involving a foreseeable risk to the adult for whom the health care is proposed that is not outweighed by the expected therapeutic benefit
  ○ Psychosurgery (surgery to destroy or remove small areas of brain tissue as ‘last resort treatment’ for some mental disorders, implanting electrodes)
  ○ Removal of tissue (not organs) for implantation in another person or for medical education
  ○ Participation in a health care or medical research program that has not been approved by a committee referred to in section 2 of the Regulation (to view the Regulation, go to www.bclaws.ca—View Statutes and Regulations—’H’—Health Care Consent Regulation)
  ○ Any treatment, procedure, or therapy that uses negative stimuli to produce a change in behaviour (i.e. exposing you to your fear so you become immune or less affected)

• Including a statement that your representative is not required to keep records of the type and in the format outlined in the Representation Agreement Act Regulation.

See the Nidus Fact Sheet on the Role of a Representative for details.

> When the government held a public consultation on the proposed wording for the Regulation (November-December 2008), Nidus and other community groups expressed concern that the record keeping requirements in the Regulation were onerous. The government’s response was to make it optional for an RA9 – if the Agreement includes a statement to relieve the representative from this duty.
• Granting your representative authority to **assist you** with decision making (as well as to act on your behalf and to do whatever is necessary).
  > Nidus has heard from many family members over the years how important it is that a representative has authority to assist with decisions as well as to act on behalf of the adult. Sometimes the doctor or nurse thinks the adult is capable, but those who know them best can tell when they are just agreeing to be polite, but do not fully understand what is being asked. This is common in a hospital situation where the doctor does not know the patient; and the stress of an illness or injury and unfamiliar surroundings can cause the patient to be confused.

• Including a statement affirming your trust in those appointed in your Agreement.
  > While this may seem obvious, Nidus has found that such a statement adds strength to the Agreement and reinforces your choice in case others may question it.

**The Custom RA9 Form also offers the following options:**

• Giving your representative authority to make temporary arrangements for the care and education of your minor children or others you support. (optional in Custom Form)
  > A Will covers guardianship of minor children if you die; this authority is for situations during your lifetime when you may be incapable and need someone to help care for your children. In certain cases it may avoid the children going into government care.

• Giving your representative authority to interfere with your religious practices. (optional)
  > Religious practices are different from religious beliefs. The Representation Agreement Act says your representative must carry out your beliefs. An example of religious practices may be attending services weekly or giving regular donations or a specific percentage of your income (tithing).

• If your representative is your spouse, including a statement to permit your spouse's authority to continue even if your relationship breaks down or ends. Spouse is defined as legally married or living in a marriage-like relationship.
  > The Representation Agreement Act says that your Agreement automatically ends if the representative is your spouse and your relationship breaks down or ends. If you have named another representative who will be able to continue to act or you have appointed an alternate, your Agreement will continue even though your spouse's authority has ended. Some people might want their spouse's authority as representative to continue, even if their relationship with you has broken down. This could be important if you only name one representative. In Nidus' experience, younger couples who included the statement to allow the representative's authority to continue, often changed their minds when the relationship broke down and instead revoked (cancelled) their RA9 and make a new one.

• Stating that your representative alone will determine your current wishes and whether they are reasonable and stating your representative may bypass their duty to comply with your current wishes if they are different from wishes you expressed when you were capable.
  > The duty to consult and comply with your current wishes is a safeguard and the law says that your representative does not have to comply with your current wishes if they are unreasonable. This safeguard reinforces one of the important principles of Representation Agreements – the presumption of capability. Just because a health care provider determines you are incapable of informed consent, does not mean you cannot communicate your wishes. The safeguard is also important because people may express specific wishes when imagining a future situation, and then change their minds and wishes when they are currently living the situation.
  > However, what if there is a disagreement about your current wishes and whether they are reasonable? What if your current wishes are contrary to wishes you expressed when capable to give consent for yourself? These optional statements are intended to give your representative the final say. It does not mean they cannot seek advice or input from others. The authority that a representative may bypass their duty to comply with your current wishes does not require them to do so; it gives them discretion when evaluating your current wishes against their knowledge of you and any verbal or written wishes and instructions you expressed previously.
• Including a statement in your Agreement that you have expressed values, beliefs, wishes, or preferences in a separate written document (such as an Advance Care Plan or Living Will) which you have discussed with your representative and may update from time to time.
  > You do not have to put your wishes or beliefs in writing. If you do, see the following question and answer for more explanation.

**Q - Is it better to include instructions and wishes in the Representation Agreement or in a separate document?**

**A -** Nidus’ years of experience tell us that if you want to express instructions and wishes about care, they are best covered in a separate document as a supplement to your Agreement. If you include wishes in your Representation Agreement form and later you want to change, add or delete your wishes, you will likely have to make a new Agreement.

Writing your wishes on a separate page allows for more flexibility. The effect is the same. Your representative must follow your wishes – written and verbal.

You can register written wishes and instructions with the Nidus Personal Planning Registry so they are easily accessible along with your Representation Agreement.

You can use the Nidus **Values and Beliefs Discussion Guide** for talking with your representative and alternate about what is important to you. Go to www.nidus.ca—Self-Help—Tools.

You can also provide your representative with practical information to make their job easier if they have to step to assist you. Use the **Personal Information Record** to list the names of financial institutions you deal with, your financial advisor/planner, pharmacy, family doctor or clinic, specialists and more. Nidus will be including the Personal Information Record in its online Registry so you can keep this information up-to-date and handy for your representative. For the current version, go to www.nidus.ca—Self-Help—Tools.

**CUSTOM RA9 — SPECIAL REQUEST**

Nidus may provide a **Special Request** RA9 Form for situations that are not covered by the Basic or Custom RA9 forms. These will be for situations that require more explanation and discussion. Here are examples of some authorities or declarations that might be addressed in a special request:

• Naming someone in your Agreement as a monitor.
• Naming those you want excluded from having information about and/or involvement in your care.
• Including a trigger event to say when your Agreement comes into effect. The Basic and Custom RA9 forms are in effect when signed and witnessed (read more on page 14). Trigger events are generally for people who have an episodic type of mental illness (for example, a mood disorder) and want to set out a plan for treatment and care when you become ill. You can use the symptoms of your illness to specify when a representative’s authority will come into effect with respect to authorizing treatment for your mental illness and as a way to avoid use of the Mental Health Act.

**You can obtain the RA9 form that fits your situation using the Nidus RA9 Form Chart found at the end of this guide.**
Completing Your RA9

WHEN THE AGREEMENT IS IN EFFECT

The wording in the RA9 Basic and Custom Forms says the Agreement comes into effect immediately. This is to ensure the Agreement is ‘ready-to-go’ under any circumstances including an emergency. This does not mean your representative takes over if you are capable of making decisions. The health care provider checks with you first, and if you are capable, you will make the decision.

The Representation Agreement ends when you die. You can also revoke (cancel) your Agreement as long as you are capable. The capability requirements for revoking are the same as the requirements for being considered capable to make an RA9.

You can read more about when a Representation Agreement comes into effect and when it ends in the Nidus fact sheet called Lifespan of a Representation Agreement at www.nidus.ca—Information—Representation Agreement—Resources.

ARRANGING FOR YOUR WITNESSES

You will need to sign your Representation Agreement in front of two independent witnesses. When choosing your witnesses, think of friends, neighbours, extended family, and others who know you. The two witnesses can be a ‘couple’ (e.g. husband and wife) - as long as they meet the qualifications below.

You will need TWO witnesses who meet all of the following qualifications; they must:

• Be 19 years of age or older.
• Understand your type of communication.
• NOT be the representative or alternate representative named in the Agreement.
• NOT be the spouse, child or parent of a representative or alternate representative named in the Agreement.
• NOT be the employee or agent of a representative or alternate named in the Agreement.

NOTE: The definition of spouse is a couple who are legally married or living in a marriage-like relationship; the definition of child or parent means related by birth or adoption. In some circumstances, an agent could be a lawyer, notary, financial advisor, attorney named in a Power of Attorney or other person who has authority to act on behalf of a representative/alternate. The idea is to have witnesses who are independent of the parties named in the Agreement.
SIGNING YOUR AGREEMENT

The witnesses must watch you sign your Agreement and then they will watch each other sign below.

Do you have physical difficulties signing?
• Signing means making a mark. If you have physical difficulties signing, your mark may not look like your name or initials – it might be a line or a dot. The important part is that you make the mark on your own, voluntarily, in front of the witnesses.
• You can practice; try holding the pen in your other hand or your mouth.
• Some people with physical disabilities use a stamp for their signature on government and even cheques. Using a stamp alone is not advised for the Representation Agreement. Try to make a mark. You can put your stamp beside your mark.

If you cannot physically hold a pen to make your mark, you can direct someone to sign for you. This is only for cases where you cannot physically sign. It is not for situations where someone has difficulty understanding the RA9 authorities. In such a case, please email info@nidus.ca.

If you cannot physically sign a Custom RA9 Form, let Nidus know. We will provide special wording on the RA9 form. The person signing on your behalf must be 19 years or older and can NOT be a representative or alternate named in the Agreement or be a witness for the Agreement. They must sign their name in front of you and with the two witnesses watching.

Registering and Storing Your RA9

REGISTERING THE COMPLETED AGREEMENT

After you have completed the Representation Agreement, you can register it with the Nidus Personal Planning Registry. Registration is not required by law. It facilitates communication so your plan is available when needed.

The Registry lets you record that you have made a Representation Agreement, who is appointed and where the original is located. You can also store a copy of your completed Representation Agreement. The Registry can also provide a wallet card listing your Registration Number.

The following is based on a true story with names changed:

Gloria made a Representation Agreement in 2006 and registered it with the Nidus Registry. In February 2012, Gloria had a massive stroke. Her representative and alternate were at the hospital but they did not have a copy of the Agreement with them. Gloria had her Registry wallet card in her purse and the ICU social worker contacted the Registry. A copy of Gloria’s Agreement was on file and Gloria had given permission for health and personal care type institutions to access her record.
The social worker provided the information required for security measures and was able to obtain and print a copy of the Agreement to put in Gloria’s hospital chart. It turned out that Gloria had chosen a friend as her representative and had specifically stated she did not want her family involved (spouse and family are the first to be contacted from the default list if there is no Agreement in place). The Registry helped Gloria’s wishes to be honoured - and quickly. Later, the representative needed to check on other information in the Registry including the location of the original Agreement and what document Gloria made to cover finances.

The Personal Planning Registry provides a centralized and secure place to keep details of important information and plans in the event you need help during your lifetime to manage your finances or make health care decisions. You can update phone numbers and addresses in the Registry. If you move, you can update the location of your original documents. The Registry is designed to make it easy for those who may need to help manage your affairs and carry out your wishes.

The Registration fee is included in the fee for the Custom RA9 form. The fee is $25.00 to register the Basic RA9 form. For more information, go to www.nidus.ca/registry.

Ready to Register?

To register your completed Agreement, go to www.nidus.ca/registry. (Or go to the website and click on the Registry tab in the blue menu bar at the top.)

The Nidus Registry is once again online for self-service. This allows you to register documents and manage the Account. You can keep information up-to-date and make information accessible as needed.

Read the instructions on the Registry page.
- Make sure there is no existing Registry Account for the adult.
- Have the signed and witnessed RA9 ready so you can enter information about it.
- Scan the completed RA9 in PDF format so you can upload a copy to store in the online Registry. If you do not have it in the correct format, you can upload it later.
- Have contact information for the adult (the Account Holder) and at least two personal identifiers such as date of birth and care card number.
- Have your credit/debit card ready to pay the fee online using PayPal. If you ordered a Custom form, we will have given you a coupon number to use for payment.*

* Nidus may provide a coupon number for special circumstances where someone is not able to pay online and wants to pay by cheque instead. You must arrange this BEFORE you start. Email us with your request at info@nidus.ca
STAYING CONNECTED TO NIDUS

Personal planning is an emerging field and Nidus is one of the leaders. Nidus acts as a hub for collecting and sharing people’s experiences. This way we can learn what works best and we can identify ways to prevent and solve problems.

Nidus is not just a resource for you, but your representative and alternate will likely need to use resources on the Nidus website when they find it necessary to ‘pull the Representation Agreement out of the drawer.’

There are many ways to connect with Nidus. You can subscribe to our newsletter, like us on Facebook and follow us on Twitter. Click the links on the right sidebar at www.nidus.ca.

SAFEKEEPING THE ORIGINAL REPRESENTATION AGREEMENT

Keep the original of your Representation Agreement in a safe but accessible place. The original is proof of authority. Do not keep it in a safety deposit box at the bank or credit union. There are two key reasons for this. If you have a sudden illness or serious accident, your representative may need to locate the original quickly. This may not be easy to do within banking hours. You would also have to ensure your representative has full access to the safety deposit box - not just a key. They will need be added to the list at the bank or credit union. Many people keep the original at home.

The Nidus Personal Planning Registry stores information about your Agreement including the location of the original. You can keep this information up-to-date in the Registry, in case you move.

DISTRIBUTING COPIES

Give a copy of the Agreement to the representative, alternate and monitor named in the Agreement. Check what authority the Agreement covers so you know which parties to contact. Here are some examples.

If your Agreement includes health care and personal care:

• Give a photocopy of the Representation Agreement to your family physician and any other doctors or specialists you see regularly.
• If you live in assisted living or residential care (care facility or group home) or in a Home Share setting, make sure you provide a photocopy of the Agreement.
• Take a copy to the hospital if you are having planned or elective surgery. Ask that it be put in your chart.
• You will not be able to anticipate every situation such as an accident or sudden and serious illness. Your representative will need to take a copy to the hospital to add to the chart. This is discussed next.
USING THE AGREEMENT FOR HEALTH CARE AND PERSONAL CARE MATTERS

Ensure that a copy of the Representation Agreement is put in the medical chart and in any residential care setting. Make sure you provide all your contact phone numbers in case of an emergency. Representative’s have a right to access information that you are entitled to and that relates to their areas of authority and your capability/incapability.

Tips for representatives:

• When you are helping the adult with health care or personal care decisions or acting on the adult’s behalf as a representative, refer to yourself as the legal representative. Hospitals and care facilities may use the old term ‘next-of-kin’ or ask for an emergency contact. A representative has more authority than a family member, so be sure to identify yourself that way.
• You may need to provide information on the adult’s current medications, test results and health status. Keep informed.
• As a representative, you must keep records of decisions you make and actions taken on the adult’s behalf. You may be asked to report on these. Your records will also be helpful for meetings with professionals about the adult’s care. You can use a notebook to keep track of dates, people involved, decisions and follow-up actions. Read about your duties at www.nidus.ca—Information—Representation Agreement—Resources—Role of a Representative.
• Review the Nidus fact sheet on Health Care Consent to learn when health care providers must get consent, who is considered a health care provider and what is required for informed consent. Go to www.nidus.ca—Information—Health Care Consent—Resources.

OTHER FORMS YOU MAY NEED LATER ON

You may need some of the following forms at a future time. These are located at www.nidus.ca—Information—Representation Agreement—Resources.

Confirmation of Substitution Form – if a representative is temporarily or permanently unable to act and the Agreement names an alternate, you can use this form to confirm the replacement. Look at the wording in your Representation Agreement form under the heading "Confirmation of Substitution" to see who needs to sign it.

Making Changes to a Representation Agreement – this fact sheet answers questions such as what if someone named in the Agreement moves – how do we change the address? or how do we remove someone from the Agreement?

Resigning as a Representative or Alternate named in an Agreement – this fact sheet provides information on the legal procedures for a representative or alternate to resign. It also includes a sample Notice of Resignation form.

Revoking a Representation Agreement – making a new Agreement does not automatically revoke (cancel) the previous Agreement(s). This fact sheet provides information on the legal procedures for revoking a Representation Agreement. It also includes a sample Notice of Revocation form.
### Nidus Basic RA9 Form: Available free on website | Register completed form for $25.00

<table>
<thead>
<tr>
<th>Form Type</th>
<th>Number of Representatives</th>
<th>Number of Alternates</th>
<th>Areas of Authority</th>
</tr>
</thead>
</table>
| BASIC     | 1 Representative          | 1 Alternate          | ▶ **Health Care including:**  
  - Minor and major health care, including medications, immunizations, surgery, dialysis, chemotherapy, and any care requiring general anesthetic.  
  - Give consent to health care you wanted when well, but refuse to give consent to at the time the health care is provided.  
  - Refuse Life Support.  
|           |                           |                      | ▶ **Personal Care including:**  
  - Diet, grooming, and exercise.  
  - Taking part in activities.  
  - Obtaining licences and permits.  
  - Personal safety issues.  
  - Making living arrangements, including admission to a care facility.  
  - Physically restrain, move or manage you, or to authorize someone else to do these things, despite your objections. |

### Nidus Custom RA9 Form: $75.00 per form | Fee includes registration of completed form

<table>
<thead>
<tr>
<th>Form Type</th>
<th>Number of Representatives</th>
<th>Number of Alternates</th>
<th>Areas of Authority</th>
</tr>
</thead>
</table>
| A         | 1 Representative          | No Alternate         | ▶ All authorities covered in Basic RA9 (above).  
| B         | 1 Representative          | 1 Alternate          | ▶ Authority to assist you with decision making (as well as act on your behalf).  
| C         | 1 Representative          | 2 Alternates         | ▶ Record keeping is allowed to be more flexible.  
|           |                           | Alts. will both move up if rep is unable, and may act independently | ▶ Statement to re-affirm trust in those you appoint.  
|           |                           |                      | ▶ Consent to medical procedures, which are listed in the Regulation for the Health Care Consent and Care Facility Admission Act. |
| D         | 1 Representative          | 2 Alternates         | ▶ Optional statements you may select:  
|           |                           | Alts. will move up one at a time (Alt #1, Alt #2) |   - Authority to make arrangements for care of my minor children and others whom I support.  
| E         | 2 Representative          | No Alternate         |   - Authority to interfere with my religious practices.  
|           | Reps. may act independently |                      |   - Statement to permit my spouse’s authority as representative to continue even if our relationship breaks down or ends.  
| F         | 2 Representative          | 1 Alternate          |   - Statements that my representative alone will determine my current wishes and if they are reasonable and that my representative may bypass their duty to follow my current wishes or instructions if they are different from those I expressed while capable.  
|           | Reps. may act independently | moves up if both Reps. are not available |   - Statement that refers to written wishes I expressed in a separate document.  

Click Here to be directed to the Basic RA9 Form

Click Here to be directed to the Custom RA9 Order Form
### Special Request RA9 Form: Non-refundable fee of $25.00 for initial consultation.

<table>
<thead>
<tr>
<th>Form Type</th>
<th>Roles</th>
<th>Areas of Authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>SPECIAL REQUEST</td>
<td>If you require a different role set-up (for example you want to appoint a monitor) or other options not included in the Basic or Custom forms, you may request further customization of the RA9. There is an initial, non-refundable fee of $25.00 for consultation with Nidus staff to discuss your special request. The fee for a RA9 form with special customization is a minimum of $75.00. per person.</td>
<td></td>
</tr>
</tbody>
</table>

**ADDITIONAL RESOURCES**

If you wish to read the Representation Agreement Act and Regulation go to [www.bclaws.ca](http://www.bclaws.ca) and select Statutes and Regulations.

The Nidus website also has additional information in the form of fact sheets, videos and stories. Go to [www.nidus.ca](http://www.nidus.ca) and look under the Information and Self-Help headings.

The Nidus Values and Beliefs Discussion Guide outlines issues you may wish to discuss with your representative and alternate about what is important to you. Find it at [www.nidus.ca](http://www.nidus.ca)—Self-Help—Tools. You may also want to complete the Personal Information Record, located on the same page.

The Planning Circle Exercise offers an interactive way to engage people in the discussions about making a Representation Agreement. It is found at [www.nidus.ca](http://www.nidus.ca)—Self-Help—Tools.