

Lifespan of a Representation Agreement

This fact sheet is based on the Representation Agreement Act of British Columbia as amended September 1, 2011. If you made an Agreement before that date, see the Nidus fact sheet on [Amendments and pre-Sept.1st Agreements](#).

When Does a Representation Agreement Come Into Effect?

Immediately

The Representation Agreement Act says a Representation Agreement comes into effect immediately upon 'execution' of the Agreement.

A Representation Agreement made on or after September 1, 2011 is 'executed' when you (the adult) have signed it and your signature is witnessed. At least one of your representatives must also sign the Agreement (their signatures do not have to be witnessed).

You are not required to consult with a legal professional to make a Representation Agreement.

An Agreement with [Section 7 standard powers](#) has additional execution requirements. The witnesses must sign a Certificate of Witnesses, the representative(s) must sign a Certificate of Representative and if a monitor is named in the Agreement, they must sign a Certificate of Monitor.

A representative must sign before they have the authority to act. It is strongly advised that all named representatives and alternates sign as soon as possible. This avoids delay of treatment and pain relief for you. Health care issues can be urgent and an alternate may need to step up if the representative(s) is not available.

It is common for Representation Agreements to come into effect immediately. You may continue to make decisions even though the Agreement is in effect. For example,

Mei needs help now with managing her financial affairs and making health and personal care decisions. Mei's Representation Agreement with Section 7 standard powers comes into effect immediately. Mei's representatives support her in managing her own affairs. They bring the Agreement 'out of the drawer' when they are asked to show their legal authority.

Geraldine has been diagnosed with dementia and makes a Representation Agreement with Section 9 broader powers because she wants to plan for the future. Geraldine decided she wants her Agreement to be in effect immediately so it is ready-to-use in case she is in a car accident or has a stroke (or other unexpected illness or injury) as well as in the case that she experiences a gradual decline with dementia. Her Agreement will 'stay in the drawer' until needed.

Later, when a trigger event has occurred

The Representation Agreement Act says you can include a statement in the Representation Agreement to say it will come into effect at a later time. This is called a 'trigger event.' A trigger event can be a specific date or a description of an event that must occur before the Agreement comes into effect.

In the majority of circumstances, a trigger event may not be helpful. For example, the Health Care Consent Act requires the doctor to try to get consent from you first. If your Agreement includes a trigger event and the doctor determines you are incapable, the doctor needs to wait for the trigger event to be confirmed before your representative can give consent to treat you. Including a trigger event in your Representation Agreement may be a duplication of existing checks and balances.

The most important factor is to determine the purpose of a trigger event. If there is a concern that the representative may act when they are not needed, then that person should not be appointed. There are a number of safeguards provided by the Representation Agreement Act. You can read about them at the Nidus website in the Information Section under Preventing Abuse.

Any trigger event must be carefully written to ensure you and your affairs will not be at risk while others interpret whether the event has been 'triggered' or not. If you decide to include a trigger event in your Agreement, the law says you must say by whom or how the event will be confirmed.

If you have a recurring/episodic mental illness such as a mood disorder, you might use the symptoms of your mental illness as the trigger event for aspects of your Agreement. This is sometimes referred to as a Ulysses-type Representation Agreement. Nidus will produce a fact sheet on this.

When May the Authority of a Representative End?

The financial authority of a representative can be ended

If your Agreement includes the authority for routine management of your finances, the representative's authority for this is automatically cancelled if:

1. You or your representative apply for bankruptcy or a Receiver is appointed for your affairs, or
2. Your representative is convicted of an offence involving dishonesty.

The financial authority of a representative may also end if the Public Guardian and Trustee (PGT) takes over your financial and legal affairs. This happens when a designated health care provider sends in a form called a Certificate of Incapability to Manage Finances. Under the Patients Property Act, the financial authority of the Representation Agreement is 'suspended' until the PGT decides whether to take over or allow the Agreement to continue to be effective for financial affairs.

If your spouse is a representative and your relationship ends

The Representation Agreement ends if the representative is your spouse and your relationship breaks down. The Representation Agreement Act defines 'spouses' as a couple who are legally married OR live in a marriage-like relationship. Even if your spouse's authority is ended when the relationship breaks down, the Agreement may continue if:

- Another representative was appointed and the Agreement states that he or she may act independently of the other representative, or
- An alternate was appointed and the alternate is willing and able to act in place of the representative, or
- You stated in the Agreement that your representative's/spouse's authority should continue even if your relationship breaks down.

If the people you appoint cannot act

Generally, if a monitor is named in the Agreement and the monitor dies, resigns or is otherwise unable to act, the Agreement ends.

If your representative(s) resigns, dies, or is otherwise unable or unwilling to act, the alternate representative(s) will act. However, if no one is able or willing to act, the Agreement ends.

If your representative acts while they are working at a licensed facility and you are in care

The Community Care and Assisted Living Act (CCACL Act) states that an owner, operator, employee, contractor, volunteer or person ordinarily present of a licensed community care facility (including community living agencies, residential care facilities and hospices) cannot act as your representative if you are receiving or formerly received care from a licensed facility or agency.

The CCAL Act is not clear on the consequences of a representative acting when not allowed.

When Does a Representation Agreement End?

If a judge appoints someone as committee/guardian for the adult

Someone may apply to the court under the Patients Property Act to be appointed Committee (guardian) over the adult. If the judge finds you are mentally incompetent under the Patients Property Act, the judge can decide whether the Representation Agreement may continue or if a court-appointed guardian will be imposed. You will need to hire a lawyer to argue the case.

When the adult dies

The Representation Agreement ends when you (the adult) die. If you made a Will, your executor takes over.

How Do I Change or Cancel My Agreement?

Revoking or Cancelling a Representation Agreement

You may cancel or withdraw (revoke) your Representation Agreement as long as you are capable of making an Agreement.

Making a new Representation Agreement does not automatically cancel a previous one. The Representation Agreement Act spells out the procedures for revoking. See the Nidus fact sheet on [Revoking a Representation Agreement](#).

Changing a Representation Agreement

Go to www.nidus.ca - click on My Documents > [Changing Documents](#).