

Making Changes to an Enduring Power of Attorney

Do NOT alter the original legal document as this can raise suspicions and may affect validity.

*This fact sheet discusses **two types of changes** to an Enduring Power of Attorney (EPA):*

- 1) Changes of who is appointed in the EPA (see below); and*
- 2) Changes to contact information for the adult or other people appointed in the EPA (see page 2).*

This information is about an Enduring Power of Attorney made under Parts 2 & 3 of the BC Power of Attorney Act. It is not intended for a non-enduring Power of Attorney. This information is also not intended for a 'Bank Power of Attorney,' which is likely an enduring-type of power of attorney but very limited in scope. You would have to read the 'Bank Power of Attorney' to see what changes are allowed and any specific procedures.

1) CHANGES OF WHO IS APPOINTED IN THE EPA

Can I add another person or swap one person for someone else in an existing Enduring Power of Attorney?

While the BC Power of Attorney Act says you can make changes to an EPA—like changing people appointed—the procedure is complex and the result can be messy and confusing. The common practice (for the past many years and especially since the introduction of computers) is to revoke (cancel) the previous EPA and make a new one. A new EPA makes things more clear.

To add a different person to an Enduring Power of Attorney, the adult (the EPA belongs to) needs to:

- 1. Revoke** (cancel) the existing EPA, and
- 2. Make a new** EPA.

Only the adult can revoke their EPA. Making a new EPA does NOT automatically revoke (cancel) the previous one.

The Nidus Resource Centre provides information on the legal procedures and sample form for *Revoking an EPA*. See where to find more resources on page 3.

Can someone resign from the EPA?

Yes, a person appointed in the EPA can resign. The Nidus Resource Centre provides information on the legal procedures and sample form for *Resigning from EPA*

An Example:

Chris has an Enduring Power of Attorney (EPA) Larry is appointed as the attorney, Sylvie is the alternate attorney.

*Chris and Larry used to be good friends but they have grown apart. Chris is not comfortable with Larry being his attorney. Chris is undergoing cancer treatments and can't think about making a new EPA at this time. Larry agrees to **resign** as the attorney.*

Fortunately, Chris named Sylvie as an alternate attorney. If Chris needs someone to act on his behalf for financial or legal affairs, Sylvie will act as the attorney.

*After his treatments, Chris plans to **revoke** (cancel) his EPA and make a new EPA with Sylvie as the attorney. He is going to name two alternate attorneys who can move up one at a time if Sylvie is not able or willing to be, or continue to be, his attorney.*

Where to find information on revoking and resigning?

Go to www.nidus.ca > Information (top menu bar) > select Enduring Power of Attorney

NOTE: If there is no one appointed in the EPA who can be the attorney (like another attorney or an alternate attorney) check the wording in the EPA to see if it includes a specific statement to allow the attorney to appoint a new person in their place. By default, an attorney cannot do this (an attorney cannot delegate their decision-making authority to anyone else, except with respect to investments). See more information in *Role of Attorney*

2) CHANGES TO CONTACT INFORMATION

Do I have to make a new EPA if there is a change to contact information?

No, you do not have to make a new EPA due to a change of address, phone number, or email. These types of changes do not affect the validity of the EPA. You and/or those appointed in the EPA may need to show identification with the current address.

Follow these tips:

- Do **NOT** make changes on the original of the EPA 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 information and print the new information on the photocopies.
- If you have already distributed copies of the RA, let those institutions and professionals know of changes. It is just like informing people and organizations when you move.
- One of the purposes of the **Nidus Registry** service is to provide a way to keep contact information up-to-date. See the box to the right.

What if there is a legal name change?

A legal name change does not affect the validity of the EPA. In BC, a name change due to marriage does not prevent use of one's unmarried last name—the names can be used interchangeably.

A name change may raise questions if ID cards have the new name but the EPA has the old name.

The adult can revoke the existing EPA and make a new one. Or stick with the existing EPA and keep a copy of the name change confirmation handy. Make sure everyone who is part of the EPA is aware and can explain if needed. Follow the same tips as listed above.

Updating Contact Information in the Nidus Registry - if the EPA is registered

These instructions are for doing it yourself. (If a lawyer or notary public is updating information as a Registration Agent, there are some differences.)

1. Go to <https://nidusregistry.ca/>
2. Scroll down a bit to the green Log In button and click it
3. At Access Your Account - enter the Nidus ID (7 numbers) and password and click Log In.
4. At the Account/Welcome page, see the second container/box called 'My Personal Planning Documents' - click Power of Attorney
5. At a new web page, there are separate containers with information about the registered document. To change contact information for those appointed, find the container for appointees and click 'Edit Information' and make updates. Be sure to click 'Save Changes.'
6. If you need to change contact information for the adult (called the Account Holder), click 'Return to Account.' You should be back at the Welcome page — look at the green container to the right. Click the View/Edit tab at the bottom of the green container. Click Edit to make changes and be sure to click 'Save.'
7. When finished in the Nidus Registry, click Log Out in top right corner.

If you need to contact the Registry, email registry@nidus.ca

DO YOU HAVE A COMPREHENSIVE PLAN?

In BC, any type of power of attorney only covers financial and legal affairs.

In BC, the legal planning document for health care and personal care is a Representation Agreement. To learn more, go to www.nidus.ca > Information (top menu bar) > select the topic of Representation Agreement.

Answers to some frequently asked questions

Q The alternate attorney named in the EPA died. I have someone else who is willing to be an alternate. Can I just cross out the name of the deceased alternate and write in the new name?

A NO. Revoke the EPA and make a new one to appoint the new person. See page 1.

Q I tried to change the name of the alternate in the Nidus Registry Account but I can only Edit the address and phone, but not the name. How do I change the name?

A You cannot change names in the Nidus Registry—this would affect the integrity of the system. You first need to follow the legal procedures to revoke your previous EPA. Go go www.nidus.ca > Information (top menu bar) > Enduring Power of Attorney - click to read information and see sample form for *Revoking EPA*

After you do the Notice of Revocation and give it to those required, you can register the revocation (to replace the previously registered EPA) and then you can register the new EPA.

Log into your Nidus Registry Account and at the Welcome page, scroll down to 'Registration Options. Select Notice of Revocation. If your previous EPA is registered, it will show up on the top half of the page 'Revoke Existing Registered Document.' Click the link for your previously registered EPA and proceed to register the revocation. Then 'Return to the Account' and scroll down to 'Registration Options' and select Power of Attorney to register your new EPA.

Where can I register the EPA?

One of the biggest problems people have is locating important information and documents when they are needed. This might be during a health crisis or other emergency like a wildfire or flood.

The online Nidus Registry, operated by the Nidus Resource Centre, is the only registry in BC for types of powers of attorney and Representation Agreements — it can also securely store other important information and documents.

You can retrieve your own records in the Nidus Registry yourself and you can arrange access for others who may need to know. The Nidus Registry is online for 24/7 access.

For example, Where is the original of the EPA located? Is there a Representation Agreement?

The Personal Information Record in the Nidus Registry can keep track of details like—What regular bills need to be paid? What financial institutions are the bank accounts at? Are there allergies to food or medications? What are the current prescriptions and dosages? Information is typed in online and can be changed.

Learn more at <https://nidusregistry.ca/faqs/>

First time to register?

Go to <https://nidusregistry.ca/>

Click Sign Up and create an Account—*put the name of the person the document belongs to, not the name of the person(s) appointed in it.*

After creating the Registry Account, you will come to the Account/Welcome page. *Scroll down to 'Registration Options' and select the name of the document you want to register.*

INFORMATION AND RESOURCES

Where to find more resources?

Go to www.nidus.ca > Information (top menu bar) > select Enduring Power of Attorney or Representation Agreement or other topic.

Thanks from the Nidus Resource Centre to donors for funds to produce this and other education resources.