

Representation Agreement

Section 9 Non-standard Powers (RA9)

For adults who meet the traditional (cognitive) approach to capability.



“Making a Representation Agreement is about quality-of-life to the end-of-life. It gives us peace of mind.”

Click to read the [Representation Agreement Overview fact sheet](#). Information is also available at nidus.ca

What is a Representation Agreement?

A Representation Agreement is a legal document under the Representation Agreement Act of BC (RA Act). This law came into effect on February 28, 2000. There were some amendments (changes) to the law as of September 1, 2011.

A Representation Agreement is the only legal planning document in BC that covers health care and personal care matters.

The authorities a representative can have are listed in two different sections of the RA Act.

For short-hand you will hear RA7 and RA9 to describe two types of Representation Agreements.

There are different approaches to capability for each type. Some adults will NOT meet the capability requirements to make the RA9; they will make the RA7.

REQUIREMENTS TO MAKE

Who may make a Representation Agreement?

Making a Representation Agreement depends on:

1. Age requirements—you must be **19 years** or older (adult in BC); and
2. Capability requirements—**BC has two approaches** to capability. The RA9 is based on a traditional (cognitive) approach—you must understand the nature and consequences of RA9, at the time of making it. The RA7 takes a different approach. See next heading for details.

No legal professional is required for making any type of Representation Agreement (RA9 or RA7).

No medical assessment is required.

Who is this RA9 fact sheet for?

This fact sheet is about the **RA9**. It is for adults who **independently understand** what a RA9 may cover and the consequences of making it.

Some adults will NOT be considered capable to make the RA9. If you are helping an adult who has cognitive difficulties, read about the [RA7](#).

The Nidus Resource Centre provides free Basic RA forms for personal use. Go to nidus.ca > see Forms.

AUTHORITIES OR POWERS IN RA9

What authorities are listed in section 9?

Section 9 of the RA Act includes comprehensive health care and personal care authorities.

- A representative named in a RA9 has authority to refuse life supporting health care; a RA9 gives a representative authority to consent for admission to a care facility.
 - » If an adult/patient is determined capable to decide, the adult makes the decision. Sometimes in such cases the adult may want their representative to act for them.
- The RA9 does NOT include any authorities for finances.
 - » For most adults in BC, the Enduring Power of Attorney (EPA) will be a companion to their RA9. The EPA covers comprehensive financial and legal matters. See chart on page 2 of the [RA Overview fact sheet](#).
- If the adult has minor children (under 19), the RA9 can include a statement to give the representative authority to make decisions about health care, personal care, and education matters for the minor.

Links to related information:

- [EPA and Role of Attorney](#)
- [Will Tips](#)
- [Consent for Admission to a Care Facility in BC](#)

In the RA9 form available through Nidus, the authorities are spelled out in detail.

- The idea is to give your representative as much authority as possible. They may not have to use the authority, but you may not be able to give it to them later.
 - » Although a representative has a legal authority, how they use that authority will depend on the circumstance at hand. Your wishes and values also guide the use of the authority.
 - » For example, the RA9 from Nidus (and other sources, although it may not be spelled out) includes the authority to 'move or manage me despite my objections in order to provide health care or personal care.' This does not mean your representative will do this, but, it lets them be involved if a situation arises where your ability to understand and give or refuse informed consent is affected by an illness or injury.
 - Let's say you object to take a test that the representative and your medical team believe you would have wanted and that will be helpful to determine the best health care treatment for your future care and your quality-of-life. If, for example, your ability to understand is affected by dementia. The RA9 gives your representative authority to authorize the health care provider to move or manage you in order to accomplish the test.
 - If you do not include or you cross out this authority, then your representative has diminished ability to insist on being informed of such matters and to give or refuse consent on your behalf. They need this authority to oversee any actions taken and request changes if necessary.

RA9 FORM

The Nidus Resource Centre provides free Basic RA forms for personal use with instructions, information and tips. Go to nidus.ca > see Forms.

RA9 - is a Representation Agreement with authorities from section 9 of the RA Act. The Basic RA9 from Nidus is for naming one representative and one alternate.

- Just because someone is not named in the RA9, it does not mean the representative cannot talk with them or get input.
- In the past, spouses, family members and friends have been helping with these decisions and advocating for the patient's wishes with and without success—with the RA9 they can now have legal clout!

- There is no required form for a RA9. There are different sources and therefore different wording.
- It is important to read the wording in the RA9 as the legislation may set out general requirements but they can be met in different ways.
 - » For example, look at the wording for when the alternate may replace the representative. Unlike some other RA9 forms, the RA9 provided by Nidus allows for the alternate to act in temporary situations when the representative may not be available. The wording in the RA9 by Nidus complies with the legislation.

ABOUT CAPABILITY

In its education, the Nidus Resource Centre contrasts two approaches to capability:

1. The Traditional Approach, and
2. The RA7 Approach.

The **traditional approach** is the dominant approach, and the one most of us grew up with and accepted without question and without realizing how it excludes some people.

- The capability requirements for making a Will, a contract, types of power of attorney, **RA9** and other legal documents take the traditional approach.

The traditional approach is based on cognitive ability to understand.

The **RA7 approach** takes a different view. It helps us look at capability in new (non-cognitive) ways. For more, read [RA7 fact sheet](#).

What is required for capability to make a RA9?

Section 10 of the RA Act outlines the capability requirements for making a RA9:

- To be considered capable to make a RA9, **you must understand the nature and consequences of the RA9**, at the time of making it.
- Usually people have a good sense about RA9 capability requirements based on reading the Nidus fact sheets and experiences with service systems. A medical assessment is not required.

What else does the RA Act say about capability?

The RA Act (in sections 2 and 3) states that:

- Everyone is presumed capable of making their own decisions and of making a Representation Agreement, and
- The way an adult communicates does not prevent them from making a Representation Agreement.

The key for making the RA9 is being capable to understand and demonstrate that understanding.

Who should make a RA9 and when?

Although the following examples all describe situations where the adult has a diagnosis or condition, a RA9 is for anyone 19 years or older AND who meets the capability requirements.

There seems to be a mindset in society that most people (although cognitively capable to understand) do not make a RA9 until they are 'old' or in a health crisis. These are not ideal times for planning.

- The best time to make a RA9 is well in advance of needing it.
- If capable to understand, you can always revoke/cancel the RA9 and make a new one.
- Most people will make more than one Representation Agreement in their lifetime. This is normal.

SOME EXAMPLES

Who makes the RA9?

Geraldine was **recently diagnosed with Alzheimer Disease** and is concerned about her ability to make decisions and manage her affairs in the future. She learned about Representation Agreements through her support group and made a RA9.

Geraldine named her husband, Hank, as her representative and daughter, Sara, as her alternate. Geraldine feels better about her future, knowing that she has put legally enforceable arrangements in place. The people she trusts and who know her best will be able to ensure she is treated with dignity and respect even as her cognitive capability may be affected by dementia.

Equally important, Hank also made a RA9. He does not have a specific diagnosis but he knows it is important for Geraldine (and his own) well-being that his affairs are in order. He names Sara as his representative and his son, Hank Jr., as his alternate.

Michael has an **inoperable brain tumour**. Michael made a RA9 and named his friend, Gustav, as his representative. Although Michael took part in experimental therapy at an earlier stage of his illness, he has decided he does not want further treatments, however promising. He wants Gustav to be able to refuse these treatments on his behalf, if he becomes mentally incapable and even if the doctors believe these could extend or prolong his life. The RA9 also gives Gustav authority to consent to pain medication and comfort care.

Michael feels reassured the RA9 will enable him to die with dignity.

Tammy is a **single mom with sole custody** of her two sons, ages 5 and 7. Tammy has breast cancer. She is about to have surgery and wants to prepare for various situations that may arise. Tammy's common law spouse, Sandra, will be looking after her sons and Tammy wants to ensure that Sandra has the legal authority to look after their well-being. Tammy learned that a RA9 can include the authority to make arrangements for the care and education of an adult's minor children.

Although Tammy does not expect to become mentally incapable from the treatments, she expects she may not have extra energy to look after the needs of her children like she would want.

Tammy made a RA9 naming Sandra as her representative and Tammy's sister as the alternate. The RA9 gives authority to make health and personal care decisions for Tammy. With the addition of a specific statement Tammy's RA9 also gives authority to manage the care and education needs of her sons. Tammy made an Enduring Power of Attorney in case Sandra needs to use some of Tammy's money to cover any financial needs of her sons.

When Tammy gets through the surgery and follow-up treatments, she and Sandra plan to get married and Sandra will adopt the boys so she and Tammy will both have parental rights (and responsibilities). Sandra will also make a RA9 with authority to cover the care and education of minor children. (A Will lets parents appoint a guardian for minor children, but a Will only applies after death, not while alive.)

Jazmin has an **episodic mental illness**. There are times when she is well and other times when her judgement and insight are affected by the mental illness. Jazmin made a RA9 when she was well and met the capability requirements to understand. She wants her representatives to be able to consent to treatment when she is mentally ill, even if she refuses treatment at the time. This way, her representatives can give voluntary consent and Jazmin will not be involuntarily committed under the Mental Health Act of BC.

If Jazmin is under the Mental Health Act, her representatives are limited in some of their authorities. The Mental Health Act also does not recognize Jazmin as having the same consent rights as other British Columbians—even if she knows what treatments are most effective for her mental disorder.

OTHER EXAMPLES

Earlier, this fact sheet mentions that anyone 19 or older and who meets the capability requirements can make a RA9. This is true. However, young adults age 19-30 may not have the need or life experience for a RA9. This does not mean they should not do personal planning; it means they make plans appropriate to their circumstances.

It may be suitable to make a RA7ALL (not because of cognitive difficulties) due to need. If a 20 year old is injured in a ski or car accident, if needed, the representative can use the RA7ALL to manage the adult's finances, talk to their employer and make decisions about health and personal care including rehabilitation.

Life events such as getting married, being a parent, running a business and owning real estate call for more comprehensive documents. The RA7ALL can be revoked.

Some young adults, even as minor children, have already faced life-threatening experiences or life-limiting illnesses. These circumstances make the RA9 most appropriate.

FREQUENTLY ASKED QUESTIONS**What are the roles in RA9? Who to name?**

Click to read about [roles and restrictions](#)

Who gets copies of RA9?

Click to read about where to [keep original and who gets copies](#)

What about wishes? What if I made a living will? Is the M.O.S.T. form legal?

Click to read about [Expressing Wishes for RA9](#)

Click for the [Values and Beliefs Discussion Guide](#)

How does MAiD fit with a RA9?

Click to read [Nidus fact sheet on MAiD](#)

What is an Advance Directive?

Click to read about [Advance Directives - BC](#)

What about signing?

Only the adult who the Agreement belongs to needs witnesses. Get information and tips on [Signing RA9](#)

What are the duties of a representative?

Read about [legal duties](#) of representative and alternate. See also [Role of Representative](#)

How is the RA9 used?

Remember, there are no financial authorities in the RA9. Following is more information and tips:

[Using for health care and personal care](#)

[Tips on access to information, delegation, when RA9 is in effect, when RA9 ends](#)

How to register the RA9?

Do NOT send any paperwork to Nidus. The Nidus Registry is online for you to do it yourself.

Click to read instructions on [how to register](#)

What if there are changes?

Do NOT make any changes to the original of the RA9. Click to read [Making Changes](#)

Can I revoke the RA9?

Only the adult can revoke (cancel) their RA9. The law says if the adult meets the capability requirements to make a RA9, they are capable to revoke it.

Making a new Representation Agreement does NOT automatically revoke a previous one. Read the steps and see sample form [Revoking an Agreement](#)

Can a representative resign?

Yes, a representative or alternate may resign from the Agreement they are named in.

Sometimes this may require the adult to make a new Agreement. Click to read more: [Resigning as representative or alternate](#)

Where do I find other Nidus resources?

The Nidus Resource Centre has lots of free information, stories and videos on its website at [nidus.ca](#)

Is personal help available?

Nidus resources are geared to self-help. The availability of personal help depends on funding. To check, email info@nidus.ca

If you need help to print information from the Nidus Resource Centre website, ask at your public library or MLA office.

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