

Legal Planning Document Made Outside BC for Health Care Requirements to be legally valid for use in BC as a Representation Agreement section 9 (RA9)

Sometimes when people move to BC they bring legal planning documents, made for another jurisdiction, and want to use these documents in BC. Sometimes people may not become BC residents but want a legal planning document they made outside BC, to be legally recognized in BC perhaps if visiting in BC for periods of time and/or if have a complex health condition.

What kind of legal planning document is this about?

This information is about a legal planning document made outside BC that is:

- Validly made and still effective according to the legislation of the jurisdiction where it was made and where the person who made it was ordinarily resident, and
- Authorizes one or more people to help the maker of the document with decisions about **health care or personal care matters** or to make such decisions on behalf of the maker of the document.

*If you need information about a legal planning document made outside BC that deals with **finances**, see last heading on page 2.*

Are legal planning documents made outside BC automatically recognized for use in BC? **NO.**

Section 41 of the BC [Representation Agreement Act](#) outlines requirements for a legal planning document for health or personal care matters made outside BC to be recognized as a Representation Agreement made under [section 9](#) (RA9) of the BC Representation Agreement Act — this is referred to as “**deemed representation agreement.**”

More details about the legal requirements are set out in the [Representation Agreement Regulation](#).

How does the document made outside BC get to be accepted for use in BC?

In order for a legal planning document for health or personal care matters that was made outside BC to be recognized in BC, the document made outside BC must be accompanied by a completed **Certificate of Extrajurisdictional Solicitor**.

The prescribed Certificate (Form 5) is found in the Representation Agreement Regulation under [Schedule](#) (look for Form 5). An exact copy of the Certificate is attached here after page 2.

If the document made outside BC, meets the requirements to be recognized in BC and is accompanied by the completed Certificate, it can only be used in BC if the person who made it and the person named in it (who has authority to act) are at least **19 years of age**.

Does it matter where the legal planning document was made? **YES.**

BC legislation sets out requirements to recognize a legal planning document (as described above) made outside BC only if made within the following jurisdictions:

- Canada (any province/territory outside BC, except not a document made under Part 1 or Part 2 of Schedule A of Yukon’s Adult Protection and Decision-Making Act),
- United States of America,
- United Kingdom of Great Britain and Northern Ireland,
- Australia, or
- New Zealand.

What does the Certificate of Extrajurisdictional Solicitor look like? Who signs it?

The Certificate for a document to be a “deemed representation agreement” is provided here after page 2.

The Certificate must be completed by a solicitor who is permitted to practise in the jurisdiction outside BC where the document was made.

A lawyer is a solicitor; in some jurisdictions a notary public or other party may have authorization to act as a solicitor to sign the Certificate.

You do NOT have to contact the same solicitor who originally made the document, but you will want to contact a solicitor who is knowledgeable about and familiar with such documents. In some legal practices, this may come under Wills and Estates.

What else is required in addition to getting the Certificate completed?

- The completed Certificate must accompany the legal planning document made outside BC.
- At the time of using the document in BC, the maker of the document and the person authorized to act must both be 19 years of age or older.
- The person authorized to act must follow the duties required under the BC Representation Agreement Act (RA Act). The duties are listed in [section 16](#) of the RA Act. The Nidus Resource Centre also provides a fact sheet [Role of Representative](#).

Does BC legislation apply to the ‘deemed representation agreement’? YES.

Once the document made outside BC is deemed to be a Representation Agreement under section 9, the BC RA Act and the Representation Agreement Regulation apply. You may wish to read the [RA9 fact sheet](#)

What if I can't get the Certificate of Extrajurisdictional Solicitor signed?

If you can't get the required Certificate completed, or if the document was made in a jurisdiction not listed for recognition, an adult may make a **BC document**. (It might be useful to keep the document made outside BC, just in case the maker moves back to the jurisdiction.)

BC has two main types of Representation Agreements (RA7 and RA9). The RA7 was designed to be accessible for adults who have cognitive difficulties (perhaps due to a disability from birth or due to advanced dementia).

- Click to read [Representation Agreement Overview](#)
- You will also find lots of information, stories and videos on the Nidus Resource Centre website at [nidus.ca](#)

What if there is a legal planning document made outside BC for financial affairs?

A similar procedure is designed to recognize legal planning documents for financial affairs made outside BC. In this case such a document can be recognized for use in BC as an Enduring Power of Attorney. To read more details and see the required Certificate, click [DocMadeOutside BC for Financial Affairs](#)

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

CERTIFICATE OF EXTRAJURISDICTIONAL SOLICITOR

(made under section 9 (4) of the Representation Agreement Regulation)

(to be completed by a solicitor in the jurisdiction in which an extrajurisdictional representation agreement was made)

Part 1 - Identification of solicitor

1 This certificate applies to the instrument made _____
[date]

by _____
[name of adult]

authorizing _____
[name of person or persons]

to do the following _____
[summary of the powers the person, or each person, is granted]

2 I am lawfully entitled to practise law in _____
[name of jurisdiction, including province or state, if applicable, and country]

3 My contact information is as follows

[name]

_____ [telephone number] _____ [e-mail (optional)]

[address, city, province or state, postal code or zip code]

4 The regulatory body that governs the practice of law in my jurisdiction is

[name]

[telephone number]

[address, city, province or state, postal code or zip code]

Part 2 continued on next page

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(made under section 9 (4) of the Representation Agreement Regulation)

(to be completed by a solicitor in the jurisdiction in which an extrajurisdictional representation agreement was made)

Part 2 – Certifications made by solicitor

1 I certify that

- (a) the instrument described in Part 1 of this certificate authorizes a person to assist the maker of the instrument to make decisions, or to make decisions on behalf of the maker of the instrument, respecting personal care or health care,
- (b) at the time of making the instrument, the adult who made it was to the best of my knowledge ordinarily a resident of _____
[province or state, if applicable, and country]
and that jurisdiction is
- i. outside British Columbia but within Canada, or
 - ii. within the United States of America, the United Kingdom of Great Britain and Northern Ireland, Australia or New Zealand, and
- (c) the instrument was validly made according to the laws of the jurisdiction in which
- i. the adult who made the instrument was ordinarily resident, and
 - ii. the instrument was made.

[signature of solicitor]

[date]