

GENERAL GUIDELINES FOR REPRESENTATIVES ON USING THE RA

This information and tips relate to the RA forms provided by the Nidus Resource Centre.

- Find RA forms provided by Nidus at www.nidus.ca – click RA Forms in rights sidebar, under Highlights.
- These guidelines are very general.
- Nidus also provides separate and specific tips for using the RA for health and personal care matters and using the RA7 for finances. You still need to read this resource.

The greatest barrier faced will be lack of education and/or misinformation about Representation Agreements.

- There has been no systematic education in any sector.
 - Lawyers are learning about Representation Agreements, along with the public, community groups, government agencies, financial institutions, health authorities, health care providers and others.
 - This puts the responsibility on those named in the RA to get informed. You have to help yourself and each other.

HOW TO GET STARTED? – GET INFORMED!

1. Read ‘Authority of Representative’ – this usually starts on page 1 of the RA.
2. Read the Information section of the RA – after the ‘execution’ requirements (page where the representative and alternate sign).
3. Depending on the authorities listed in the RA, read ‘Tips for Using with Financial-type Institutions’ and/or ‘Tips for Using with Health Care-type Institutions’. These were provided as links on page 2 of the Kit with the RA form and are also on the website – www.nidus.ca – click Information (top menu) then click Representation Agreement.
4. Read relevant information at www.nidus.ca – click Information (top menu bar) – click topic

A representative has authorities/powers and also responsibilities/duties.

- For example, a representative must keep records of decisions they make.
- The legal duties of a representative are outlined in [section 16](#) of the Representation Agreement Act (RA Act). Some highlights:
 - A representative’s legal duty is to follow the adult’s wishes and values, not their own.
 - > Sometimes the representative has different values and beliefs than the adult. The job of the representative is to support the adult’s wishes and values.
 - A representative **can NOT delegate their authority** for making decisions or for consent (except with respect to investments) – but a representative can get help with their duties.
 - > For example, a representative can NOT give a service provider (paid staff or home share provider) authority to make a decision about a prescription for the adult. The health care provider must get consent from the adult or someone who has legal authority to act for the adult – like the representative.

- > The representative can ask staff to assist by transporting the adult to a medical appointment. Staff and community agencies provide a lot of practical help.
 - ❖ The difference we are highlighting here is: legal authority to make decisions for the adult versus practical help.
- The RA is not like a hammer. The RA is not like a weapon to control the adult or service providers. The RA can help clarify roles, which then leads to better communication.
- A representative needs to know what is going on – so they can provide continuity of care, in case they have to act on behalf of the adult.
 - Agencies/facilities, staff and other service providers involved with the adult need to keep the representative informed and need to facilitate good communication between the adult and their representative.

TIPS:

When acting in the role of representative, always sign your name as the representative per Representation Agreement (BC). Do not sign the adult's name as that would be fraud.

A representative uses the RA when they need to provide proof of authority. Sometimes it is not needed and it 'stays in the drawer.'

It is a good idea to review the RA regularly – maybe once per year. Make sure it names people who the adult is comfortable with and who can be involved.

Links to read the BC legislation:

- [Representation Agreement Act](#)
- [Representation Agreement Regulation](#)

An alternate has the same duties as a representative but not the authorities.

- An alternate has the same duties as they may have to act at short notice if something happens to the representative.
- An alternate does not have authority until they act as the representative (read the RA to see the wording for when the alternate may act and how this can be confirmed).

ACCESS TO INFORMATION

An important authority of a representative is listed in section 18 of the RA Act.

- This is specifically mentioned under 'Authority of Representative' because it is not well known by third parties (where the RA has to be used).
 - A representative has a right to access information and documents that the adult is entitled to and that **relate to an area of authority given to the representative**.
 - > For example, if the representative does not have authority for health care or personal care matters, then the representative cannot get information or documents for these matters.
 - ❖ Sometimes a representative has to get records after the adult is discharged from the hospital.

- ❖ Sometimes a representative has to talk to doctors and get test results so the adult can make their own decisions. The adult's health and energy may be very weak, so the representative uses their authority to access information and save the adult some hard work.
- A representative also has a right to access information and documents related to the **adult's incapability**. This is not tied to the representative's areas of authority.
- There might be a fee for photocopying information and documents.
- Some organizations or agencies may require the representative to submit a formal Freedom of Information (FOI) request. Sometimes a representative can get the information directly. Different procedures may be determined by policies or the nature of the request or relationship with the representative.
 - > Hospitals have released records directly to representatives.
 - > Once the organization or agency has a copy of the RA on file, the representative should be able to access information and documents directly.
 - ❖ But this may depend on how reasonable the request is viewed. Obviously, a representative who makes constant requests is going to take up more staff time (and time = money). The behaviour of one representative may lead to a policy or position that makes access to information more complex for all representatives.

WHEN DOES RA COME INTO EFFECT?

The RA forms provided by Nidus is **in effect immediately** after the adult and witnesses have signed and other signing and paperwork is completed.

- Read what it says on the RA forms provided by Nidus. Look for the heading 'When Agreement is in Effect.'
- Just because the Agreement is in effect immediately, it does not mean the representative takes over. It means the RA is ready-to-go if needed, especially if there is an emergency or other crisis.

WHEN DOES THE RA END?

A Representation Agreement ends when the adult who it belongs to dies.

- There are some other circumstances when the RA ends or some authorities might end; read the **information section** on the RA form.