

## Procedures for Resigning as an Attorney or Alternate Appointed in an Enduring Power of Attorney

### Who would resign from an EPA?

An attorney or alternate attorney is the name of the role given to the individual(s) or institution(s) appointed in an Enduring Power of Attorney (EPA) to act on the adult's behalf with respect to financial and legal affairs. There can be more than one attorney and/or alternate.

If an attorney finds that they are unable or unwilling to act or continue to act, then they can resign. Sometimes an alternate attorney may decide to resign even if they are not yet acting as the attorney. See heading below 'when is resignation not required.'

### How do I resign from the EPA?

The BC Power of Attorney Act (PoA Act) was amended as of September 1, 2011. The legislation spells out procedures for resigning in section 25. The EPA document may have additional procedures for resigning.

If you do not follow the procedures outlined in the legislation (and any others listed in the EPA), the resignation may not be valid and the attorney may be responsible for not acting when needed.

A resignation must be communicated in writing (not by a verbal statement). This is called giving 'Notice.'

The legal procedures require that the Notice of Resignation be given to specific people. This is explained under a later heading.

### When is resignation not required?

If the adult who made the EPA revokes (cancels) the EPA, then the entire EPA and all authorities given in it are ended. It would not be necessary for those appointed as attorney or alternate attorney to resign. See where to find more resources on page 2 for details on *Revoking an EPA*.

The BC PoA Act as amended September 1, 2011, says an attorney is not required to resign if that attorney (or alternate) never signed the original EPA and never acted on their authority.

However, the requirement for an attorney to sign the EPA only came into effect on Sept. 1, 2011. If the EPA was made before that date, an attorney (or alternate) was not required to sign the EPA and may have a duty to act simply because they are appointed in the EPA. In such a case, it may be important for an attorney (or alternate) to formally resign if they are unable or unwilling to act.

### Do I need to give a reason for resigning?

The legislation does not require you to state a reason for resigning. However, if asked, people often say 'for health reasons' or 'for personal reasons.'

### What is the effect of a resignation by the attorney?

The effect of a resignation depends on the wording in the EPA and the requirements of the BC PoA Act. Generally, if another attorney or alternate is named in the EPA, the EPA may continue.

If an EPA would be ended due to a resignation, the adult would instead sign a Notice of Revocation and make a new EPA. See the heading on page 2 for where to find more resources.

### What does a Notice of Resignation look like?

See the sample of a Notice of Resignation on page 3. You may use or adapt it.

### Do I need a witness when I sign the Notice?

Although not required by law, it may be helpful if you ask someone to witness (watch) you sign and date the Notice of Resignation, and then they can sign it and print their name.

### What if I don't know the date the EPA was made?

If you don't have the EPA and don't remember when you signed it put general wording on the sample form. For example: *I hereby resign from an Enduring Power of Attorney made on "before [current date]"*

### Who gets a copy of the Notice of Resignation?

In order for the resignation to be valid, you must give a signed and dated copy of the Notice to:

1. The adult (who the EPA belongs to), and
2. All attorneys (include alternates too) named in the EPA, other than yourself, and
3. If the adult is incapable at the time you are resigning, you must also give Notice to the adult's spouse, or **near relative**, or **close friend**.

*A 'near relative' is defined as an adult child, parent, grandparent, adult brother/sister, or any other adult relation by birth or adoption.*

*A 'close friend' is another adult who has a close, long-term relationship and frequent personal contact with the adult, as long as that person does not receive compensation for providing personal or health care to the adult.*

### How do I deliver the Notice of Resignation?

The BC PoA Act does not state how to deliver your Notice of Resignation to those you are required to inform. Keep proof of how you delivered the notice to those required.

You may wish to deliver the Notice of Resignation by following the procedures outlined in the Representation Agreement Regulation, but this is not binding for the EPA:

- By registered mail to the person's last known address; or
- By leaving it:
  - with the person, or
  - at the person's address, or
  - with an adult who appears to reside with the person;
- If the person operates a business, at the business, with an employee of the person; or
- By transmitting it by fax to the person, using the number they provided for notification purposes.

### When does the resignation take effect?

The resignation takes effect on the date when Notice is given to everyone required. Or, you can list a future date in the Notice for when the resignation takes effect.

### Who else needs to be informed about the resignation? Some tips.

Do NOT cross out names on the original EPA document, instead keep a copy of the Notice of Resignation with the original. Changes can be made on future photocopies of the original.

Send a copy of the Notice to any third parties where the EPA document has been distributed – for example, to the bank or Credit Union or other financial service or the Land Title Office.

Keep your own copy of the Notice of Resignation, you might need it later.

It is also a good idea to register a copy of the Notice with the Nidus Registry. One of the challenges when resigning from your role in a legal document is how to let third parties (banks, government agencies, etc.) know. Registering the resignation helps with communication.

If the adult has set up a Nidus Registry Account and you or someone authorized has the required information to Log In, the Notice of Resignation can be registered. There is a fee to register.

If you are not able to register the Notice of Resignation in the adult's Nidus Registry Account, you can request help from the Nidus Registry staff to register it. Email a copy of the Notice to [registry@nidus.ca](mailto:registry@nidus.ca) If there is no existing account for the adult; it will not be registered and no fee.

### Where to find more resources?

The Nidus Resource Centre has lots of free information on the website at [nidus.ca](https://nidus.ca)

For EPA:

- Making changes, revoking or resigning, EPA go to [Related Forms](#)
- The Nidus Resource Centre does NOT provide forms for making an EPA; go to a lawyer or notary public.

For making a RA, go to [RA Forms](#), Scroll down, there are 2 buttons to click/download for each type of RA.

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To use this sample, type in fields and print this page to sign or print this page and handwrite in fields.

**NOTICE OF RESIGNATION BY ATTORNEY/ALTERNATE  
NAMED IN ENDURING POWER OF ATTORNEY**

***In accordance with Section 25 of  
the Power of Attorney Act, R.S.B.C. 1996, c. 370 as amended,***

I, \_\_\_\_\_  
(TYPE or HANDWRITE your full name as it appears in the Enduring Power of Attorney)

of \_\_\_\_\_  
(TYPE or HANDWRITE your current address of person resigning)

phone \_\_\_\_\_  
(TYPE or HANDWRITE your current phone with area code + number)

**hereby resign from the Enduring Power of Attorney (EPA)**

Made by \_\_\_\_\_  
(TYPE or HANDWRITE full name of **adult**, as it appears on the EPA)

of \_\_\_\_\_  
(TYPE or HANDWRITE adult's current address)

phone \_\_\_\_\_  
(TYPE or PHANDWRITE adult's current phone with area code + number)

Signed on \_\_\_\_\_  
(TYPE or HANDWRITE date adult signed the EPA - month, day, year)  
(If don't kow date put wording such as, 'a date before [put current date or a date you prefer]')

**I am named in the EPA as:** (Check one)  attorney  alternate attorney

**This resignation is signed by me:** \_\_\_\_\_  
(Your signature)

**This resignation takes effect on:** \_\_\_\_\_, 20\_\_\_\_  
(TYPE or HANDWRITE current or future date - Month, Day, Year)

To be valid, the BC Power of Attorney Act section 25 says to give written notice of resignation to:

1. The adult (who the EPA belongs to), and
2. All attorneys (Nidus suggests to include alternates) named in the EPA, other than yourself, and
3. If the adult is incapable at the time you are resigning, you must also give Notice to the adult's spouse, or near relative, or close friend.

A 'near relative' is defined as a child, parent, grandparent, adult brother/sister, or any other relation of the adult by birth or adoption AND who is 19 years of age or older.

A 'close friend' is someone (19 years or older) who has a close, long-term relationship and frequent personal contact with the adult, as long as that person does not receive compensation for providing personal or health care to the adult.