



Making, Registering & Using a Representation Agreement Section 7

*To support self-determination
for ALL adults.*

Who is Nidus?

- Nidus is a non-profit, charitable organization.
- Nidus was established by community groups as the expert resource on Representation Agreements.
- Nidus also operates a Registry for personal planning documents.

Nidus is a Latin term for nest: a symbol of support, safety and self-development.

Purpose of this Resource

- Since 1989, self-advocates, family members, people with disabilities and seniors have worked together to develop and promote the made-in-BC Representation Agreement Act (RA Act).
- This slideshow shares tips, from our experience, on how to make an effective Representation Agreement Section 7 (RA7).

What is a Representation Agreement?

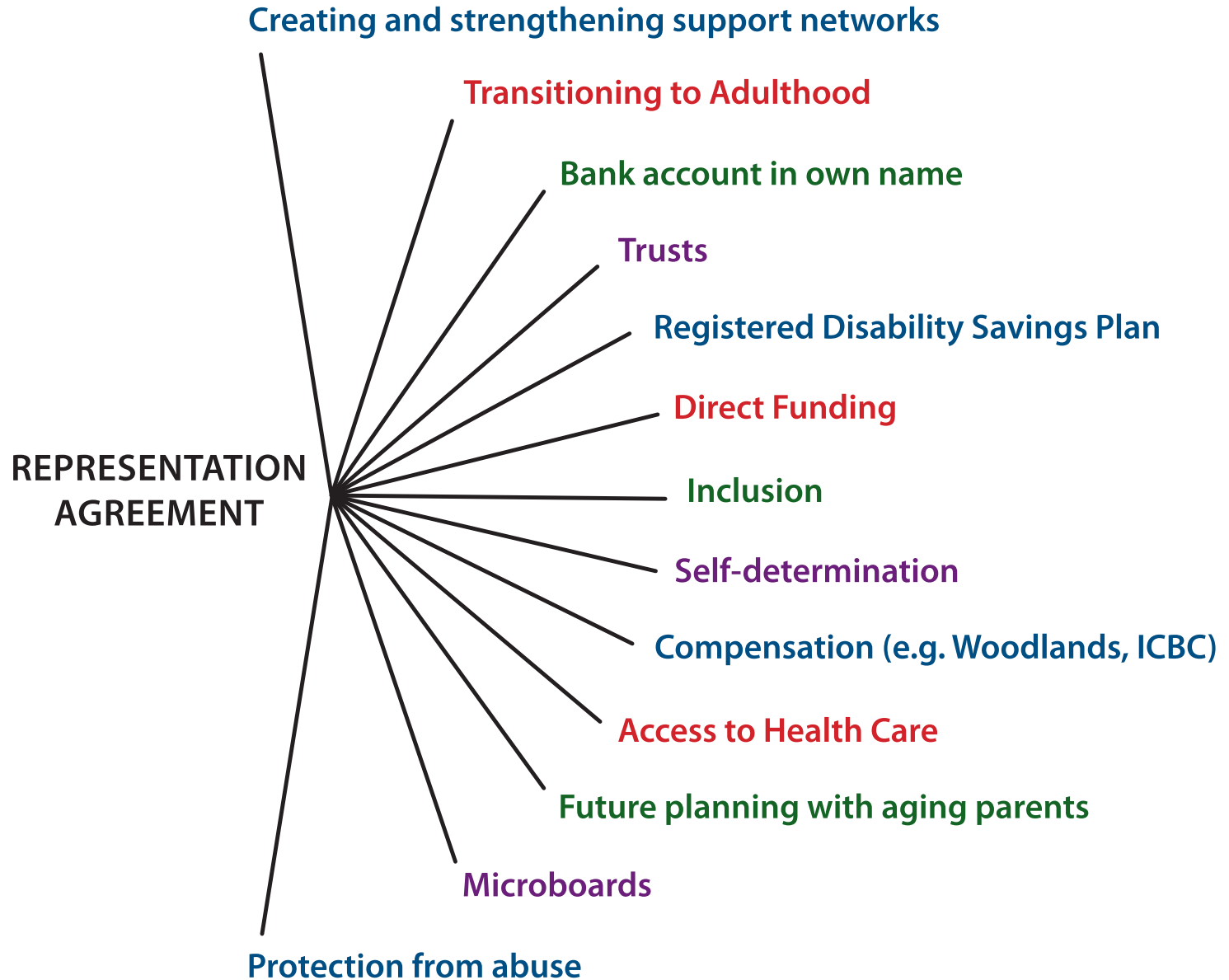
- A Representation Agreement is a legal document.
- It is a way that an adult may give people they trust the legal authority to ASSIST them with important matters that affect the quality of their life – such as managing finances, consenting to health care and choosing where and how they want to live.

What is a Representation Agreement?

- The law about Representation Agreements is very different from Power of Attorney and it needs a different approach than lawyers use.
- A Representation Agreement is not an easy, simple type of adult guardianship.
- There has been no systematic education on Representation Agreements for professionals, institutions or the public.

What is a Representation Agreement?

- A Representation Agreement strengthens an existing **personal support network**. It is also a tool for creating a support network.
- Having a strong personal support network – one or more unpaid people in one's life – ensures an adult with a developmental disability has access to opportunities, services and programs for building a good life! See the diagram on the next slide.



Representation Agreement Basics

- A Representation Agreement is NOT something you ‘apply’ for.
 - For example, it is not a service or program, such as disability benefits or a bus pass.
- A Representation Agreement belongs to the adult.
 - It is made voluntarily.



Representation Agreement Basics

- A Representation Agreement can only be made by someone 19 years or older.
- No legal professional is involved.
 - Nidus provides legal forms and instructions through a self-help approach.
 - Supporters can help an adult make and register a Representation Agreement.

How does an Agreement help?

“We travel to the United States a lot and as the representative, I used the RA7 to help my son get an Enhanced BC ID.”

“My sister needed surgery and the surgeon said she was not considered capable of giving consent. I knew my sister was in pain and wanted to get better. As the representative, the RA7 let me give consent and sign other forms the hospital required.”

How does an Agreement help?

“My friend moved to a new Home Share and I had to change her address with Canada Revenue. I could do that as the representative – I sent them a copy of the RA7 to show I have authority to help her. Now they have it on file for the future.”

“The RA7 lets me, as the representative, be at meetings with my daughter about her services.”

How does an Agreement help?

“We wanted to help our 21 year old son set up a Registered Disability Savings Plan. He needs help managing his financial affairs. The financial institution needed a copy of the RA7 so the representative (his mother) could be the Account Holder.”

- With the RDSP, he will receive government contributions to help secure his financial future.

Josh is turning 19





Turning 19

- When a youth turns 19, the child-parent relationship is re-defined.
 - Parental rights end when a child turns 19.
 - At 19, an individual assumes new rights and responsibilities as an adult.
- A Representation Agreement addresses this transition:
 - An adult may make an RA7 to give legal authority to personal supporters to help them with decision making.

Turning 19

- An RA7 does not take away an adult's rights.
- An RA7 is about supporting an adult with decision making:
 - The definition of capability in the RA Act recognizes that all adults are self-determined.
 - The duties of a representative keeps the adult at the centre of decision making.

Turning 19

- Nidus has set up a 'Turning 19' section of our website with specific information and resources.
- Go to the website home page at www.nidus.ca – click on the link *Turning 19* located below the photo of Josh and his mom.

Bruce's mother is getting older



Aging Parents

- When parents/supporters are aging or facing serious illness their concern is about being able to 'pass the torch' to others.
- The process of making an RA7 helps this transition:
 - The parent(s) are named in the Agreement and others are also named to provide support when the parents can no longer act.
 - Parents can mentor other supporters.

Why make a Representation Agreement?

Josh & Bruce are adults under B.C. law – at age 19 or older.

- Adults have rights and responsibilities.
 - Some adults need support to exercise their rights and make decisions.
- Sometimes informal support is not enough.
 - Supporters may need legal authority in order to be recognized as an advocate for the adult.

How do supporters get authority?

- Adults may give someone authority to help them – for example by making a Representation Agreement.

OR

- A relative or friend may apply to Court and ask a judge to give them authority over the adult (guardianship).
 - If the judge finds the adult incapable and appoints a guardian (Committee), the adult loses their rights and are legally a non-person.
 - An RA7 is a legal alternative to adult guardianship. In B.C., adult guardianship is the LAST resort.



Capability

- Are Josh and Bruce capable of giving someone authority?

Are Josh & Bruce considered capable?

- Capability requirements are different for different laws.
- Most laws – Power of Attorney, Wills – are based on old ideas about capability, such as:
 - Capability is ‘all or nothing.’
 - Capability can be measured the same way for everyone.
 - Capability is only about intellectual ability.

Are Josh & Bruce considered capable?

- The Representation Agreement Act Section 7 is based on new understandings about capability.
- The RA7 is for **all** adults.

How are Josh & Bruce capable?

Under the RA7:

- An adult is presumed capable until it is demonstrated they are not.
- The way an adult communicates is not a factor in determining their capability – some adults communicate through their behaviour.

How are Josh & Bruce capable?

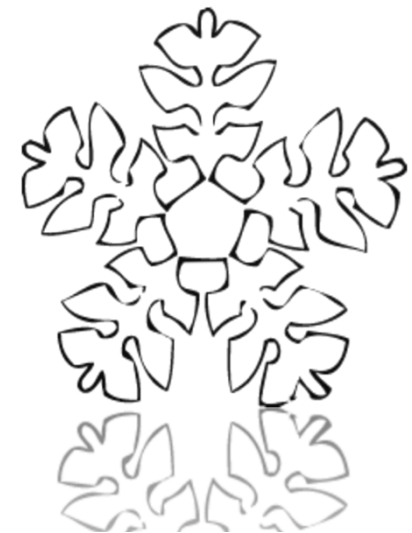
Under the RA7:

- An adult may make an RA7 even if they cannot manage their own affairs.

An adult may be considered incapable of making a Will or a Power of Attorney, but is still capable of making an RA7.

How are Josh & Bruce capable?

- There is NO specific test of capability for making an RA7:
 - This means there is NO one-test fits all.
 - This means we can look at each adult *individually* to see how they are capable of making an RA7.



How are Josh & Bruce capable?

- The RA Act says:
 - If there is a question about an adult's capability to make an RA7, all relevant factors must be considered, including, for example:
 - Does the adult demonstrate choices and preferences and express feelings of approval or disapproval of others?
 - Is the relationship between the adult and the representative characterized by trust?

What is *your* view of capability?

My daughter cannot read or write...

OR



My daughter claps her hands and nods her head when she likes something.

What is *your* view of capability?

My son doesn't understand ...

OR



My son recently started to pull away and try to hide when we go to the day program, then I found out one of the staff pinched him for taking too long to eat.
Now I understand!

What is *your* view of capability?

My brother doesn't make decisions...

OR



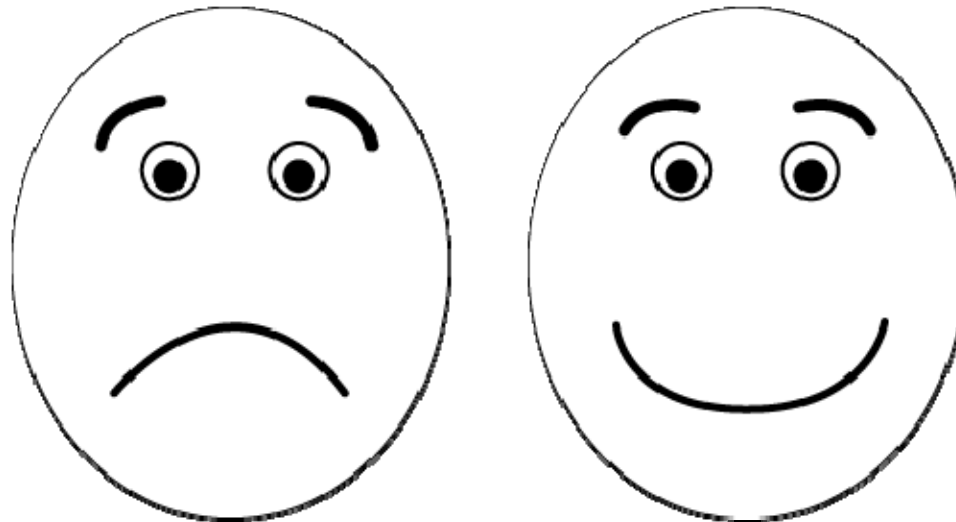
My brother wears his baseball hat everywhere and gets upset when it has to be washed. Next time I will see if he wants to buy two hats of the same kind.

New view of capability

- It is important you understand how your relative or friend is capable to make a Representation Agreement.
- If **you** do not accept that they are capable, then how can you expect a doctor, bank or government agency to accept the Agreement?

Making an RA7 – discuss communication and capability

- How is your relative or friend capable?
 - What are some of their likes and dislikes?
 - How do they communicate their likes and dislikes – their choices?
 - Sounds, gestures, behaviours...



Making an RA7 – who to involve?

- Who does the adult trust? Who knows their communication? Who respects their preferences and wishes? Who will help banks and doctors listen to them?
 - Everyone appointed in the Agreement must be 19 years or older.
 - You cannot be appointed as a representative or alternate if you are paid to provide health or personal care services to the adult – unless you are the adult's spouse, parent or child.

Making an RA7 – who to involve?

There are 3 roles that can be assigned in a Representation Agreement:

- Representative
- Alternate representative
- Monitor

Being a representative

- A representative is a different role than being a guardian or a parent/family member or a friend.
 - A guardian acts **for** the adult and does what the guardian thinks is best.
 - A representative acts **with** the adult and assists the adult to know their options and what s/he prefers and helps communicate the choices to others. A representative is like a bridge between the adult and third parties.



Being a representative

- The first duty of a representative is to ASSIST the adult.
- If necessary, a representative may also act on behalf of the adult.
 - If you act on the adult's behalf, you have more legal responsibilities such as keeping detailed records.

Being a representative

- As a representative, you have legal duties to follow. It does not matter if you are also the parent – you still have duties.
 - Nidus has information on the role and duties of a representative and a monitor.

www.nidus.ca

└─→ [Information](#)

└─→ [Representation Agreement](#)

└─→ [Resources](#)

www.nidus.ca/PDFs/Nidus_Info_Role_Representative.pdf



Being a monitor

- A monitor can be a valuable role in a Representation Agreement.
 - The monitor can act as an extra safeguard for routine financial affairs.
 - Most adults name a monitor in their RA7 for all areas of authority, not just for finances.
 - The law states that no one can prevent the monitor from having contact with the adult.

Being a monitor

- A monitor's legal duty is to try to make sure the representative is carrying out their duties.
- A monitor does not make decisions. They do not have authority to sign or act on behalf of the adult.

www.nidus.ca

↳ [Information](#)

↳ [Representation Agreement](#)

↳ [Resources](#)

www.nidus.ca/PDFs/Nidus_Info_Role_Monitor.pdf

Making an RA7 – what areas of authority need to be covered?

What areas does the adult need help with now and in the future?

The RA7 covers four areas of authority:



Minor and major health care



Personal Care



Legal Affairs



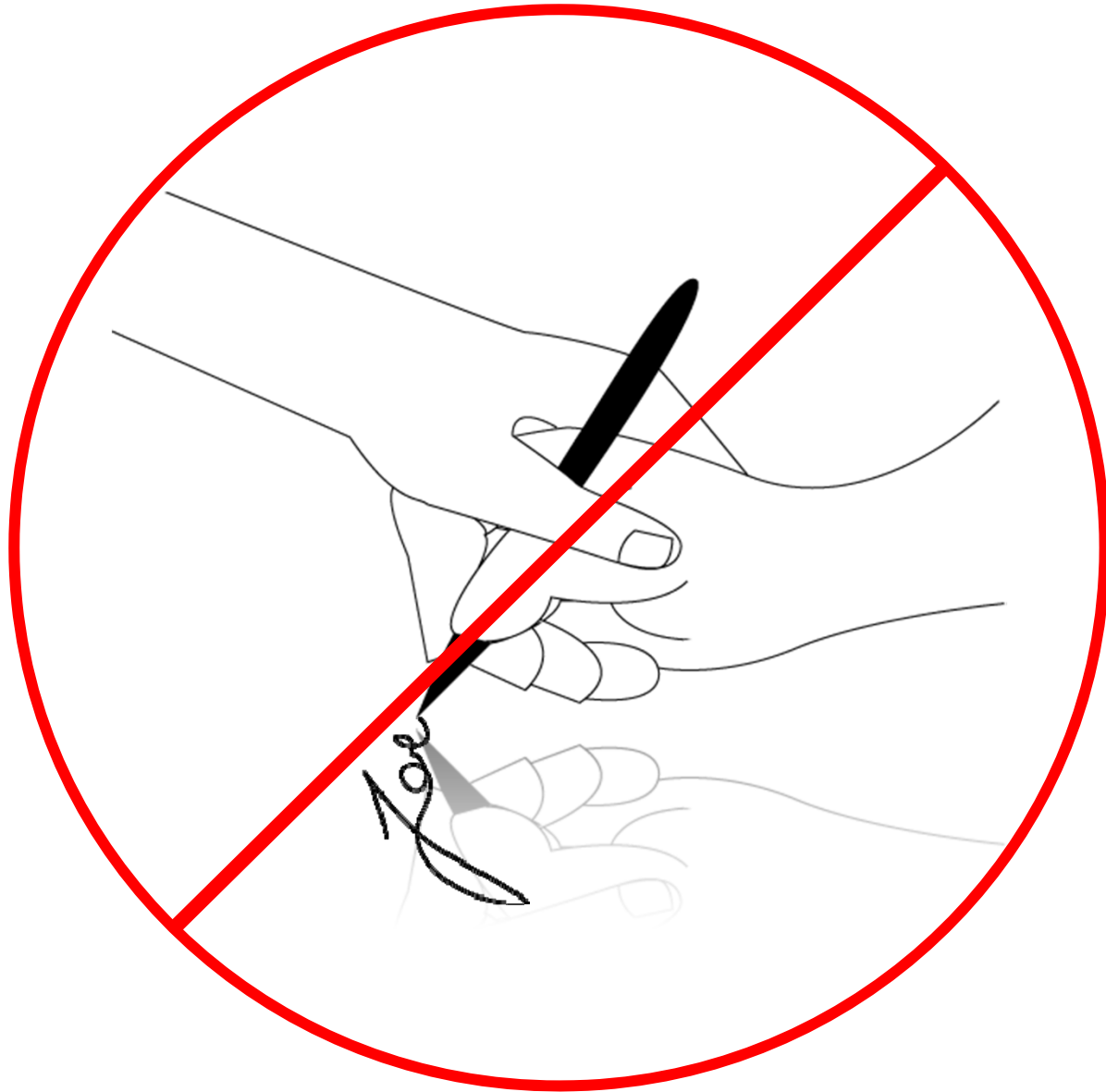
*** Routine Financial Affairs**

* **An extra safeguard** is required if finances are included. This means appointing someone in the role of monitor or appointing two representatives to act jointly for finances.

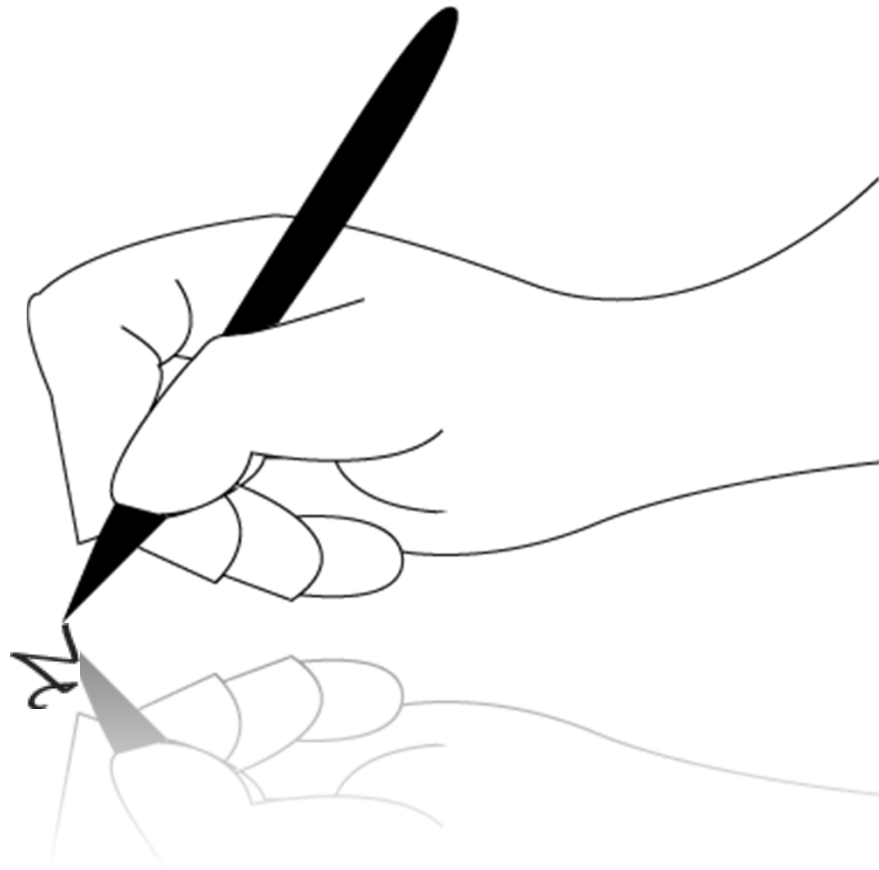
Signing and Witnessing

- The adult must make their own mark on the Representation Agreement.
- Arranging for two witnesses.
 - There are restrictions on who can be a witness. Follow the directions that come with the Nidus forms.
- Signing.
 - The adult signs first in front of the witnesses. Signing means making a mark. It is important the adult signs voluntarily.
- No legal professional is involved.

No hand over hand



Adult makes a mark



Adult makes a mark

- The adult does not have to sign or print their name or initials or X. Their mark might be a dot, line, circle, etc. It also does not have to ‘stay in the lines.’
- If you are concerned about how to help the adult make their own mark, email us at info@nidus.ca
 - Nidus can share tips and ideas that others have developed.

Arrange for witnesses

- Read the directions that come with the RA7 form. Make sure the witnesses are qualified.
- The adult signs first, then the two witnesses sign.

Adult signs first, in front of the witnesses. →


Witnesses sign after. →
Each witness then signs a Certificate of Witness.

Confirmation that the representative is temporarily or permanently unable or unwilling to act or continue to act will be provided in writing by the monitor.

8 When Agreement is in effect
This Agreement is effective immediately.

9 Signing and Witnessing
This Agreement is signed by the Adult in the presence of two Witnesses who signed here in the presence of each other:

The Adult

Signature of the Adult 	Date signed (Month, DD, YYYY) January, 01, 1993
PRINT full legal name of the Adult Johnathon Smith	

Witnesses to the Adult's Signature

Signature of WITNESS #1 	Signature of WITNESS #2 
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Other signing

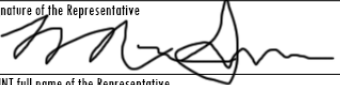
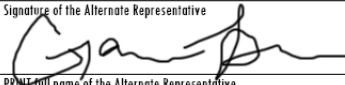
The representative and alternate must sign the document, but do not require witnesses.

10 Signing by Representative and Alternate Representative

The Representation Agreement made by:

Full legal name of the Adult (first, middle, last) Johnathon Smith	Date the Adult/witnesses signed (Month, DD, YYYY) February, 05, 2012
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Is signed by the Representative and Alternate Representative:

Signature of the Representative 	Signature of the Alternate Representative 
PRINT full name of the Representative Mary Smith	PRINT full name of the Alternate Representative George Smith

11 Information

Certificates attached: Form 1 (Certificate of Representative); Form 2 (Certificate of Monitor); Form 4 (Certificate of Witnesses).

This Representation Agreement may be registered with the Nidus Registry™ at:
www.nidus.ca/registry

The representative and alternate signatures do not require witnesses.

Certificates

The representative, alternate and monitor must also complete Certificates.

Form 1
CERTIFICATE OF REPRESENTATIVE OR ALTERNATE REPRESENTATIVE
(Sections 5 (4) and 6 (2) of the Representation Agreement Act)

- This certificate is to be completed by each representative and alternate representative named in a representation agreement made under section 7 of the Representation Agreement Act.
- The completed certificate(s) should be attached to the signed representation agreement.

Signature of Representative or Alternate Representative
Date this certificate was signed (Month, DD, YYYY)
February, 05, 2012

*Do NOT sign or date this Certificate before the Adult has signed the Representation Agreement.

Part 2 – Certifications made by monitor

I certify that
I am an adult,
I have read and understand, and agree to accept, the duties and responsibilities of a monitor as set out in section 20 of the Representation Agreement Act, and
I have read and understand section 30 of the Representation Agreement Act and have no objection to make an objection as described in that section.

Date this certificate was signed (Month, DD, YYYY)
February, 05, 2012

*Do NOT sign or date this Certificate before the Adult has signed the Representation Agreement.

The representative, alternate, and monitor also sign Certificates.

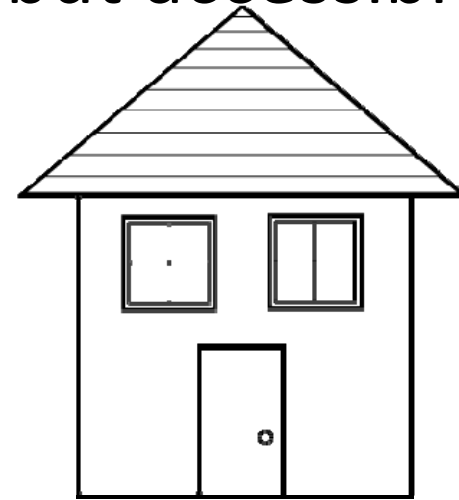
Where do we file the RA7?

- You can register a **copy** with Nidus when the Agreement is complete.
- KEEP THE ORIGINAL safe but accessible – usually in your home.

www.nidus.ca/registry



Register a COPY



Keep the ORIGINAL

Registering

- You can register the Agreement after it is signed and witnessed.
- SEND A PHOTOCOPY or a scanned copy – **not the original.**
- Procedures for registering are included in the package with the RA7 form.

Tips for Using the Agreement

- Use the Agreement when informal support is not enough.
 - If you are asked who has legal authority to accompany or assist the adult – that is when you need to take the Agreement ‘out of the drawer.’
- Keep records when you are acting on behalf of the adult. This is your legal duty.
- Nidus has lots of resources to help you. Stay connected to Nidus by signing up for the newsletter. See the link at the top right sidebar at www.nidus.ca

Tips for Using the Agreement

- If you are taking the Agreement to a financial institution for the first time:
 - Take the ORIGINAL.
 - Meet with a manager or assistant manager.
 - The institution can make a photocopy of the original and stamp it to say it is a true copy. They return the original to you and put the copy in their file.
- For the hospital, doctor and other service providers, you can make photocopies for their files.

Tips for Using the Agreement

- When you give a copy or introduce the Agreement to the bank or hospital, be sure to keep the focus on how your relative is capable.
- Talk about how you are ASSISTING them.
- Please help us teach others about the new view of capability!
 - This will help others give recognition to Representation Agreements and the adult you support.

What forms are available?

- Nidus offers **Basic RA7** forms to download free from the website.
 - There is one RA7 form to cover all authorities, if you have **three people** to appoint.
 - If you only have **two people** to appoint, you can cover all authorities in two forms. One RA7 form is for health and personal care only; the other RA7 form covers routine finances and legal affairs.
- You can also order a Custom RA7 form if you have more people or want a different set-up. For example 2 representatives, 2 alternates and a monitor.

How do we obtain the form?

- Obtain the RA7 form from Nidus:
 - **Basic RA7 forms** – download free from the website. Registration is \$25.00.
 - **Custom RA7 forms** – sign up through the website, includes a personal phone appointment with Nidus staff and an RA7 form that is designed to fit the specific situation. Fee is \$75.00 (includes registration fee).

www.nidus.ca

└─→ [Self-Help](#)

└─→ [Making RA7](#)

Questions? Need help?

- You can book an appointment with Nidus to get personal help with your situation.
 - Nidus offers in-person and phone consultations. (20 minutes).
 - You can book a time at the Nidus website home page – right sidebar:
 - Click on **Book Now** to go to the calendar.
 - Select the type of appointment.
 - The fee is \$25.00, sliding scale for low income. (Nidus does not receive funding for this service.)



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