

# What you need to know about enhanced representation agreements (section 9)

Part 1 of 3:  
A guide to legally appointing a substitute decision maker in B.C.

This document explains enhanced representation agreements, sometimes called section 9 representation agreements. It aims to help you learn about these agreements and how you can make one.

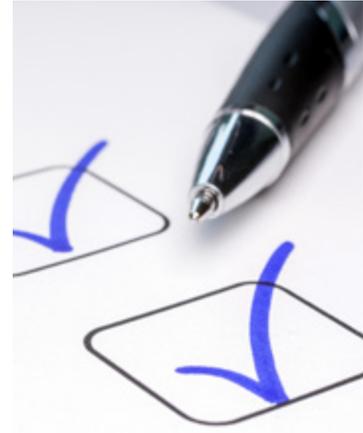
## This guide answers the following questions:

- 1 What is an enhanced representation agreement?
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***(Click above to jump straight to any question)***

There are also two other documents associated with this guide:

- **What you need to know about being a representative in an enhanced representation agreement** which outlines the roles, responsibilities of being a representative.
- **A guided tour of the BC government's representation agreement (section 9) form** which explains each section of the form produced by the BC government to help you complete the form.



BC law has two types of representation agreement:

- **Enhanced representation agreements**, often called section 9 representation agreements.  
An adult can make an agreement naming a representative for personal care and health care decisions, including decisions about life support and life prolonging treatment, if they understand the nature and consequence of the document.
- **Standard representation agreements**, often called section 7 representation agreements.  
An adult with difficulty understanding some information can make an agreement naming a representative who can make most personal care and health care decisions, and provide routine management of the person's financial affairs and legal affairs. In a standard agreement, an adult can also name a supportive decision maker to help them with decisions.

**This document does not include information about standard representation agreements.**

# 1 What is an enhanced representation agreement?

An enhanced representation agreement (often called a section 9 representation agreement) is a legal document. It lets you choose who will make health care and personal care decisions for you, if you are unable to make your own decisions.

**Health care decisions** are about tests, examinations, treatments and procedures related to your health, such as surgery, medication and vaccines.

**Personal care decisions** are about your daily life, such as where you live, diet, clothing, hygiene, and activities.

Being unable to make your own decisions is called being incapable. It could be due to illness, injury or disability. It could be temporary or permanent.

Being **Capable** means you understand the information provided, and can make a decision. A person is assumed to be capable unless there is reason to think otherwise. Incapability is determined by a health care provider. It is decision specific.

Please note: everyone has a right to support and assistance in communicating their health care decisions. *For example: if a person speaks a different language, assistance could be a language interpreter. If a person is non-verbal, they can communicate using head nodding and body language, assistance could be someone who understands how they communicate.*

The person you choose to make decisions for you is called your **“representative”**.

You can name one representative. Or you can name more than one representative, and say in your representation agreement how you would like them to work together. You can also name one or more alternate representatives, who will step in if your representative can no longer act on your behalf.

*To perform their role, your representative needs to know your values, beliefs and wishes for health care and personal care.*



## 2 What decisions can a representative make?

The decisions your representative can make is decided by you in the agreement. At its broadest, your representative can make decisions about **anything they consider necessary in relation to your health care or personal care.**

An enhanced representation agreement does not let you choose a person to make any financial or legal decisions. An enduring power of attorney or standard representation agreement can be used for this.

Your representation agreement can cover the following health care and personal care decisions:

- Where you live, including whether you live in a care facility.
- Who should have contact with you.
- Day-to-day decisions, including decisions about diet or dress.
- Giving or refusing consent to health care, which means anything done to help your health. *This includes giving or refusing consent to life-support treatment.*
- Participation in a medical research study, if the study is approved by an ethics committee.
- Decisions to physically restrain you, if necessary, for you to receive health care or personal care.

You can say in the agreement any decisions that you do not want your representative to be able to make.

There are things your representative cannot do unless in the agreement you state they are allowed to do so. This includes:

- Make decisions about some specific types of health care, including:
  - Some mental health treatments,
  - Removal of an organ or tissue for transplant, education, or research,
  - Abortion or treatments that would sterilize you, unless needed for your health, or
  - Experimental health care that has not been approved by an ethics committee.
- Make decisions about the temporary care and education of any of your children (under age 19 years old) or people you care for.
- Interfere with any religious practices you have.

*(This list is not complete; consult a lawyer if you want more information)*

### Mei's story

My mother had a heart attack and a stroke and was admitted to an intensive care unit. Her doctor told me and my two siblings that she was unlikely to recover. My sister, Ying, wanted our mother to die comfortably, so wanted to take her off life support. But our brother, Wei, wanted to keep her alive as long as possible, keeping her in the hospital with the support of machines.



In our culture Wei, as a man, would make these decisions. However, our mother lived with Ying, so she knew more about our mother's health and wishes. Both Ying and I thought it should be her. This caused a big fight.

As my mother did not have a representation agreement, our mother's doctor had to make the final decision about who should be appointed as her temporary substitute decision maker. He chose Ying, and our mother was taken off life support. Wei is still angry about this.

If our mother had made a representation agreement it would have been clear who she wanted making decisions, and maybe the conflict would have been avoided.



### 3 Why might you make one?

Here are some reasons why you might make a representation agreement:

- You want to choose who would make **health care decisions** for you if you cannot.
- You want to choose someone to make **personal care decisions** for you if you cannot.
- You want consistency in who makes decisions for you.
- You do not want your health care provider to choose a temporary substitute decision maker from a list defined by law.
- You want to ensure your family and friends know who **you've chosen** to make decisions for you. This may help avoid family conflict.

If you are not capable and you don't have a representative, the law sets out who your health care provider must choose as your **temporary substitute decision maker** to make health care decisions for you.

## 4 Who can make one?

Any person 19 years of age or older can make an enhanced representation agreement if they understand the nature and consequences of the agreement.

Completing a representation agreement is completely voluntary.

## 5 When is the right time to make one?

It is something all adults should think about, even if they are completely healthy. The best time to make a representation agreement is before you face a crisis or become seriously ill.





## 6 Who can be appointed as a representative or an alternate?

To make decisions for you as your representative or alternate, the person you appoint must be 19 years of age or older. If you appoint a person who is 18 years of age or younger, they must turn 19 before they can make decisions for you. They must be capable.

Your representative cannot be someone who is paid to provide you health care or personal care. Nor can they be an employee at a facility where you live if the facility provides health care or personal care. (These restrictions don't apply if the person providing the care or working at the facility is your child, parent or spouse).

The person(s) you choose could be a member of your family or a close friend.

A good choice for your representative is someone who:

- Knows you well and understands your values, beliefs and wishes for health care and personal care.
- Will honour your wishes and instructions, even if the wishes are different from their own (to be clear, this is their role under the law).
- Is calm in a crisis.
- Can communicate with health care providers, advocate for you, and not be pressured into accepting treatment that you wouldn't want.
- Can handle conflict or disagreement.
- Is willing and available to take on the role.

Your representative does not have to live locally. The Representation Agreement Act does not restrict who you choose based on geography. However, your representative may need to be contacted in an emergency, so consider how easy it would be to contact them.

Your representative does not have to speak English. However, they will need to talk with health care providers in BC, who will most likely be speaking English. Interpreters are available in the health care system, but they may not be on site and immediately available.

The rights and responsibilities of a representative are explained in the document [“What you need to know about being a representative in an enhanced representation agreement”](#)

### Arjun's story

I moved to Canada 10 years ago with my wife, Rani, and our 3 children. Rani and I live with my eldest son, Jeet, and his wife. I have multiple serious illnesses, and Jeet takes me to my medical appointments. My doctor advised me to do advance care planning so that my family are aware of my wishes if I become incapable.



I talked with my family. We decided that Jeet would make health care decisions for me if I can't make them. Though Rani knows about my wishes, I think Jeet would be a better decision maker. Rani is worried about talking to doctors in English, and worries about making difficult decisions for me. We agreed that Jeet will include Rani in important conversations, but he will make the decisions.

As Rani would be my temporary substitute decision maker under the law, I have made a representation agreement to appoint Jeet to be my representative. I have also named my younger son to be the alternate, should Jeet be unavailable.

## 7 What are the legal requirements for making one?

You do not need to involve a doctor, lawyer or notary public to make a representation agreement.

The documents will need to be signed by you, your representative and witnesses.

There is not one specific form you must use to make a representation agreement. The BC government has a form you can use. As well, some organizations have created forms. There may be differences in the forms. Be sure to carefully read the form you use. Choose a form that works for you, for example the number of representatives or alternates you want to appoint, or the conditions that must be met for an alternate to take over from a representative.

If your situation doesn't fit the form you have, you will need a different form. A lawyer, notary public or [Nidus personal planning resource centre](#) could help with this. [See here for some legal options.](#)

A representation agreement must be completed in English.

You need two (2) witnesses to sign the representation agreement. A witness is someone who watches you sign the document. If your witness is a lawyer or notary public, you only need one witness.



Who can be a witness?

The witnesses must be age 19 or older, and speak or understand the type of communication you use. This could be a spoken language other than English, or sign language. Your witnesses cannot be:

- The representative or alternate named in the agreement
- The spouse (including common-law), child, parent or employee of the representative or alternate named in the agreement.

The witnesses can be someone you pay to help you, such as staff in a hospital, medical clinic or doctor's office.

After you and the witnesses have signed, your representative can sign the document (and so can your alternate if you name one). They can sign at different times to you and each other, if you have named more than one person.

## 8 What should you do with the completed agreement?

You should keep the completed representation agreement in a safe and accessible place.

It is helpful to keep it with any other documents about your health or health care. First responders know to look for these documents on your fridge.

Make sure your representative and alternate have a copy and know where the original is stored. You might also want to give a copy to your doctor, clinic or assisted living residence, or other family or friends.

## 9 How do you change or cancel an agreement?

You can cancel your representation agreement at anytime, as long as you are capable of making this decision for yourself.

**To make major changes,** you must cancel your old agreement and make a new one. Some representation agreement forms include a statement that cancels any existing agreements. The enhanced representation agreement form from the BC government is one of these.

**Minor changes** like a change of address, phone number or even legal name change might not require making a new agreement. You may be able to make the change on your existing representation agreement. You should sign next to the changes and have witnesses, like when you made the agreement. If you have given copies to other people, let those people know about any changes.

**To cancel it,** you need to sign a legal document called a [\*'notice of revocation'\*](#).

If you make any changes or cancel your agreement, make sure you give a copy to your representative, any alternate, and anyone else who had a copy of your previous document. Ask people to return copies of the cancelled document.



## 10 What if you have a representation agreement and an advance directive?

An **advance directive** is a legal document that records your instructions for accepting or refusing specific health care treatments. An advance directive gives instructions to your health care provider at a time when you need health care but aren't capable of providing consent.

[See here for more information on advance directives.](#)

If you have both a representation agreement and an advance directive, your representative will still be asked about all decisions, unless you state in your representation agreement that they should not be asked about decisions covered by your advance directive.

Your representative should use your advance directive to guide them in making decisions on your behalf.

## 11 What happens if your representative and alternate are not available?

If decisions are needed and your representative and alternate aren't available or no longer qualify (for example, if they are no longer capable), a person in the **temporary substitute decision maker (TSDM) list** will be appointed.

A temporary substitute decision maker is someone identified by your health care provider to make health care decisions for you if you are not capable and do not have a **representative** or **committee of person** (also known as Personal Guardian). BC law provides a list that defines who your health care provider must choose to make health care decisions for you.

[See here for more information on temporary substitute decision makers.](#)



## 12 How is a standard representation agreement different from an enhanced representation agreement?

If you can't legally make an enhanced representation agreement, you might still be able to make a standard representation agreement (often called a section 7 agreement). The law says an adult can make a standard representation agreement even if they're not capable of managing their own health care or personal care, or handling routine financial affairs.

Under a standard representation agreement, a representative can help with or make routine financial decisions and many (but not all) of the health care and personal care matters covered by an enhanced representation agreement. For example, under the enhanced agreement, your representative can refuse consent to life-supporting treatment. Your representative cannot do that under the standard representation agreement.

[See here for more information on standard representation agreements.](#)

## 13 Is a representation agreement the only thing you should do to plan for your future care?

A representation agreement is just one part of planning for your future care, also known as “advance care planning”. Different personal circumstances may influence which documents you make, or whether you make any other documents at all. If you do just one thing, it should be to discuss your values, beliefs and wishes with the people you trust (your close family and friends).

**More information about the other parts of Advance Care Planning is available at [www.bc-cpc.ca/acp](http://www.bc-cpc.ca/acp).**

For more information about other planning tools, including a standard representation agreement (a section 7 agreement) and an enduring power of attorney, see this resource from the [Public Guardian and Trustee of BC: It's your choice - personal planning tools](#)

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This document provides general information about the enhanced representation agreement (section 9 agreement), and is specific to people living in British Columbia, Canada. The material presented here is not legal advice.

It is also available in [Traditional Chinese](#), [Simplified Chinese](#) and [Punjabi](#).

This document was developed by the BC Centre for Palliative Care, a non-profit organisation in British Columbia. Contact us at [office@bc-cpc.ca](mailto:office@bc-cpc.ca).

Reviewed for legal accuracy by Krista James, National Director, Canadian Centre for Elder Law and Staff Lawyer, BC Law Institute. March 2021.

Production of this document has been made possible thanks to funding from Health Canada. The views expressed herein do not necessarily represent the views of Health Canada.



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