The Essentials of a Plan for Your Future

for incapacity, end-of-life, and other support needs
• This presentation provides basic information. It is not legal advice.
• Thanks to donors for supporting Nidus to provide education through various means.
Who is Nidus?
Nidus…

• BC-wide, non-profit, charitable organization, established in 1995 by other community groups.
• Hub for expertise on Representation Agreements.
• Resource to the public, community organizations, and professionals.
• Provides a Registry service to help communicate important information and documents.

*Nidus is the Latin term for nest: a symbol of support and safety.*
Nidus’ participatory approach

- **Resource Centre**: Education & assistance
- **Research**: Feedback from users, analysis with Practice Advisory Group
- **Registry**: Communication—connecting information and people

Nidus Personal Planning Resource Centre and Registry
Context for Personal Planning
Personal planning – 4 life areas

Types of Planning

Personal Planning for while you are alive

Health

Personal

Legal

Estate Planning for after death

Financial
Examples of authorities for life areas

**Types of Planning**

- **Personal Planning** for while you are alive
  - **Advance Care Planning**
    - Health
      - Medications
      - Surgery, dental
      - Tests, assessments
      - Physio, Naturopath
    - Personal
      - Where you live
      - Diet, activities
      - Services at home
      - Facility consent
    - Legal
      - Insurance claims
      - Legal services
      - Hire lawyer
      - Court
    - Financial
      - Banking, investing
      - Canada Revenue
      - Sell motor vehicle
      - Re-direct the mail

- Estate Planning for after death
All areas are related

Types of Planning

Personal Planning for while you are alive
- Health
- Personal
- Legal
- Financial

Estate Planning for after death

Decisions about spending the money for quality-of-life
Decisions about managing the money, taxes

Nidus Personal Planning Resource Centre and Registry
Personal Planning Law Reform
Law reform – social change

• Guided by principles including right to self-determination, right to legal presumption of capability, adult guardianship as the last resort.

• Invest in support from family and friends (as opposed to relying on professionals and government).

• Shift the service systems away from paternalism to self-determination.

• Fill gaps in legislative framework to enable people to help themselves.
## Gaps in legal framework for planning

<table>
<thead>
<tr>
<th></th>
<th>Planning for Financial &amp; Legal Affairs</th>
<th>Planning for Health Care &amp; Personal Care</th>
<th>Legal alternative to adult guardianship (all life areas)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>BEFORE 2000</strong></td>
<td>Enduring Power of Attorney</td>
<td>NO</td>
<td>NO</td>
</tr>
</tbody>
</table>

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*Note: The highlighted row indicates a gap in the existing legal framework.*

*Source: Nidus Personal Planning Resource Centre and Registry*
Legal tools in BC for Personal Planning
Two paths for personal planning

Types of Planning

Personal Planning for while you are alive
- Health
- Personal
- Legal
- Financial

Estate Planning for after death

FUTURE PATH
Understand the nature and effect.

NEED HELP TODAY PATH
Capability to understand the nature and effect is in question.
Legal documents for each path

Types of Planning

Personal Planning for while you are alive

- Health
  - Representation Agreement Section 9 (RA9)

- Personal

- Legal
  - Enduring Power of Attorney (EPA)
  - or
    - Representation Agreement Sec. 7 for routine financial and legal (RA7 F+L)

- Financial

Estate Planning for after death

Future Path

- Representation Agreement Section 9 (RA9)

Need Help Today Path

- Representation Agreement Section 7
  - minor & major health care, personal care, routine financial and legal affairs (RA7 All)

Nidus Personal Planning Resource Centre and Registry
Law reform fills gaps for planning

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<tr>
<td>As of Feb. 28, 2000 Law Reform</td>
<td>EPA <em>(amended Sept. 1, 2011)</em> or RA7 F+L (routine)</td>
<td>Representation Agreement Section 9</td>
</tr>
<tr>
<td></td>
<td>Representation Agreement Section 7</td>
<td>Representation Agreement Section 7</td>
</tr>
</tbody>
</table>
Future Path – Legal Tools

Types of Planning

- Personal Planning for while you are alive
  - Health
  - Personal
  - Legal
  - Financial
    - Representation Agreement Section 9 (RA9)
    - Enduring Power of Attorney (EPA) or
    - Representation Agreement Sec. 7 for routine financial and legal (RA7 F+L)

- Estate Planning for after death
  - Will

Nidus Personal Planning Resource Centre and Registry
Future Path – John & Mary

- John is relatively healthy. He identifies as a caregiver so he has some stress worrying about Mary.
- Mary was recently diagnosed with dementia – she took herself to the doctor as she felt something wasn’t right. She has been John’s ‘caregiver’ for many years!
Future Path – 3 essential legal documents

Types of Planning

- Personal Planning for while you are alive
  - Health
  - Personal

- Estate Planning for after death
  - Will
  - Legal
    - Enduring Power of Attorney (EPA)
    - Representation Agreement Sec. 7 for routine financial and legal (RA7 F+L)
  - Financial

FUTURE PATH

NEED HELP TO DAY PATH
Future Path - Cynthia

• Cynthia is scheduled for major surgery. There are risks as well as benefits; how does she prepare?
Future Path – 3 essential legal documents

Types of Planning

- Personal Planning for while you are alive
  - Health
  - Personal
  - Legal
  - Financial
    - Representation Agreement Section 9 (RA9)
    - Enduring Power of Attorney (EPA)
    - Representation Agreement Sec. 7 for routine financial and legal (RA7 F+L)

- Estate Planning for after death
  - Will

FUTURE PATH

NEED HELP TO DAY PATH
Revised plan

Types of Planning

Personal Planning for while you are alive

Health

Personal

Legal

Financial

Estate Planning for after death

Will

FUTURE PATH

Representation Agreement Section 9 (RA9)

Enduring Power of Attorney (EPA)

or

Representation Agreement Sec. 7 for routine financial and legal (RA7 F+L)

NEED HELP TO DAY PATH
Future Path – Legal Tools

Types of Planning

- Personal Planning for while you are alive
  - Health
  - Personal
  - Legal
  - Financial
  - Representation Agreement Section 9 (RA9)
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  - Representation Agreement Sec. 7 for routine financial and legal (RA7 F+L)

- Estate Planning for after death
  - Will

FUTURE PATH

NEED HELP TO DAY PATH

Nidus Personal Planning Resource Centre and Registry
FUTURE PATH – RA9

• An RA9 is BC’s most comprehensive and strongest legal document for health & personal care planning.
• You must understand the nature and effect of an RA9 – at the time of making it.
• You must be 19 years or older.
ALERT – Consumer beware

• ‘Physician’s Orders’ are an old practice and are NOT a legal advance consent, for example:
  > Medical Scope of Treatment (MOST) form.
  > DNR/No-CPR form.

• Wishes **belong to the person/patient**. If anything written, give a copy for medical chart but patient retains ownership so it can be updated or changed.
  > Nidus will be doing an upcoming webinar on “Expressing Wishes – That Don’t Backfire!”
In 2012, the Ministry of Health published a guide to advance care planning called *My Voice*.

- It is confusing.
- Information on Representation Agreements is not accurate.
- The Representation Agreement forms in it (by Min. of Attorney General) are not accessible.
- The Ministry of Health knows the problems since 2013. We understand it is being revised.
FUTURE PATH – EPA

• An Enduring Power of Attorney is the most comprehensive legal planning document for financial and legal affairs.
• You must be capable of understanding – 6 items outlined in the legislation.
• You must be 19 years or older.
A Representation Agreement with authority for **routine** finances is another option on future path.

- It does not cover as much as an EPA.
- You must be 19 years or older.

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**FUTURE PATH – RA7 F+L**

- *Legal*
- *Financial*

**Representation Agreement Sec. 7 (RA7 F+L)**

for routine financial and legal affairs
ALERT – Joint Ownership

• BE VERY CAUTIOUS about joint ownership with anyone other than your spouse.
  > Bank account.
  > Vehicle.
  > Real estate.

• Issues:
  > Creditors
  > Court cases
  > Pay capital gains – and report on income tax.
ALERT – Bank Power of Attorney

• A ‘Bank Power of Attorney’ is not sufficient for personal planning.
  > Is old practice.
  > A Bank Power of Attorney could interfere with another EPA or an RA7 F+L.
Click **middle photo/heading** if you fit the future path.

- Find details on and link to **RA9**
- Info & links to **EPA Guide**.
- Info & link to **RA7 F+L form**.
What if mental capability is in question?

HELP FOR TODAY PATH
What if Mary did not plan?

- Mary’s dementia has progressed...
  - Mary did not make plans when she was considered capable and on the future path.....
  - Mary no longer meets the capability requirements for making an RA9 or EPA.
  - How can she get help from those who know and care about her?
Legal tools on NEED HELP TODAY PATH

Types of Planning

- Personal Planning for while you are alive
- Estate planning for after death

Health | Personal | Legal | Financial

NEED HELP TODAY PATH

Representation Agreement Section 7
minor & major health care, personal care, routine financial and legal affairs (RA7 All)
RA7 Capability Requirements

• The RA7 has a different view of capability than other laws/documents.
  > There is no specific criteria that everyone has to meet.

• Even if a doctor says an adult is mentally incompetent, this does not prevent them from making an RA7.
• Click **first heading** - adults with disability from birth or childhood that affects their mental capability.

• Click **third heading** - adults who did not plan when on future path (Mary Scenario 2)
You know what you want.
How do you let others know?
Personal Planning Registry

• Go to [nidus.ca](http://nidus.ca) > click Registry tab at the top.
Personal Planning Registry - voluntary

- The Personal Planning Registry helps with communication:
  - Store important information AND documents in one central location.
    - Keep information up-to-date.
  - Make registrations available to others.
    - Grant viewing access to authorized third parties.
    - Share viewing access with individuals you trust – representative, alternate, a physician.
Download and print wallet cards

www.nidus.ca/registry
Why register?

“Family and friends don’t have to rummage through drawers and bookcases hoping to find the legal documents and other information they need!”
Thank you for joining us!

info@nidus.ca  |  www.nidus.ca