

## Role of a Representative (RA7 and RA9)

This fact sheet is based on the Representation Agreement Act (RA Act) of British Columbia as amended [September 1, 2011](#).

For more, click to read about [roles & restrictions](#).

RA7 and RA9 have become a shorthand to refer to Representation Agreements with powers from section 7 of the RA Act or from section 9. Along with different powers, the RA7 and RA9 have different requirements about the cognitive capability of the maker. Financial matters are only listed under section 7 (RA7). The RA7 is designed to accommodate adults with cognitive difficulties. The RA9 has NO financial powers and must be made when the adult is cognitively capable.

### Responsibilities of a Representative

#### Be accountable

A representative is accountable to the adult.

#### Exercise general duties

A representative must act honestly, in good faith and within the law. It helps if you have good communication skills, as you may need to deal with many different people and situations.

The legal duties of a representative are outlined in [section 16](#) of the RA Act and apply whether the Agreement (RA7 or RA9) was made before, on, or after September 1, 2011.

#### Exercise assisted decision making duty first

The RA Act introduces the concept of assisted or supported decision-making. This means "doing with" rather than doing "to/for." A representative is not about exercising control over the adult.

The first responsibility of a representative is to *assist* the adult to participate in decisions that affect them. Others may help you with this.

Sometimes a representative must act or make decisions on behalf of the adult. Even then, a representative will still check with the adult to determine the adult's current wishes. If the current wishes cannot be determined or are not reasonable to follow, then any pre-expressed wishes must be followed — things that the adult said or wrote down when they were cognitively capable to understand. If these are unknown or do not apply, then decisions are made according to the adult's values and beliefs.

The adult is always at the centre of decisions.

Only as a last resort does a representative impose their opinion of what is best for the adult.

#### Keep records

You must keep records of the things you do while acting as a representative. The monitor and/or PGT may ask to see the records.

Keep track of dates, a brief description of the circumstances, the people involved (e.g., name of doctor, dentist, etc.), and the decision you made or the action you took and why.

The type of records a representative must keep are outlined in the [Representation Agreement Regulation](#) sections 3 and 3.1.

For **financial matters** (RA7), you must make an inventory and the adult's property (what the adult owns) and liabilities (what the adult owes).

When acting as the representative for routine finances (RA7), keep the inventory up-to-date with estimates of value and keep a record of all invoices, bank statements, receipts, bills and anything else related to financial activities.

When acting as the representative for **health care and personal care matters** (RA7 or RA9), you must keep copies of any instructions, wishes, beliefs and values the adult made.

Keep a record of events related to the following:

- Any changes to the adult's residence;
- Any changes in the adult's health or personal care needs; and
- Whether, despite the adult's objections, you authorized that the adult be physically restrained, moved, or managed under the authority granted in Section 9 of the RA Act, or under any other enactment.

Keep a record of decisions you make related to:

- Major health care;
- The adult's admission or continued residence in a care facility; and
- Any restrictions on who may contact or associate with the adult.

If you are named as a representative in an Agreement with powers from section 9 (RA9), check the wording in the RA9. When making a RA9, the adult has an option to include special wording to modify or waive the requirement to keep types of health and personal care records.

### No delegating your power or authority

The RA Act says that you cannot delegate your authority as a representative except for investments — see next. The restriction on delegating would not apply to another representative or alternate already named in the Agreement and who has authority.

### Manage investments

A representative can manage the adult's investments as outlined in the [Trustee Act](#).

You may delegate authority for decisions about investments to a 'qualified investment specialist' who has the necessary authority and is registered under the [Securities Act](#).

### Keep your property and money separate

As a representative, you must keep the adult's money and other property separate from your own unless it belonged to you and the adult jointly *before* the Agreement was made.

For example:

*When Shaun turned 19, he made an Agreement with all four authorities listed in section 7 of the RA Act. His RA7 includes the authority for routine management of financial affairs. Someone suggested Shaun should set up a joint bank account with Anna, his representative. However, Anna can NOT use the Representation Agreement to set up a joint account in both their names. But there is no need. Anna CAN use the RA7 to help Shaun open a bank account in his name. This way, Shaun's money stays in his name and Anna has access to help.*

A representative cannot borrow or use the adult's money for their own benefit or to help anyone else. The adult's money is for the adult's benefit.

### Keep information confidential & private

You must keep the adult's personal information private except when necessary to:

- Carry out your duties; or
- Provide information to the Public Guardian and Trustee (a government official); or
- Make an application to court.

### Not be a paid caregiver or facility employee

As of Sept. 1/11, the RA Act says that unless you are the adult's spouse, parent or child, an adult cannot *NAME* you as a representative or alternate when making their Agreement, if you are:

- Compensated (for example, a paid caregiver) for providing health or personal care services to the adult.

- An employee of a care facility where the adult lives and receives health or personal care services.

In addition, the Community Care and Assisted Living Act covers residential and other licensed care services provided to an adult. This law states that a licensee or an officer, director, agent, designate, employee, contractor, person 'ordinarily present' or volunteer of the licensee cannot *ACT* as a representative if named in an Agreement made by an adult who is in care or was formerly in care. There are NO exceptions.

## Rights of a Representative

### Access to information

As a representative, you have a right to the same information and records the adult has a right to – for example, to the adult's medical chart or bank statements – as long as these are related to your area of authority, or to the adult's incapability.

### Be reimbursed for out-of-pocket expenses

You have a right to be refunded for reasonable expenses resulting from carrying out your duties. Keep a record of expenses and payments.

The RA Act says a representative, alternate and monitor cannot be paid a fee for their time spent on decisions or actions related to health care matters. Payment of fees for time spent on other areas of authority covered by the Agreement require special wording in the Agreement and prior authorization by the B.C. Supreme Court.

### Get help and advice

A representative can use and hire help and advice to carry out their responsibilities. For example, you might need an occupational therapist to advise on equipment for the adult or an accountant to do the adult's taxes.

### Resign from your role

A representative has a right to resign. Only the adult can revoke (cancel) the Agreement. Click for information and sample [forms related to RAs](#).

### Be protected from liability

A representative may not be liable (legally responsible) for errors or damages as long as you follow your legal duties and any requirements stated in the Agreement.

A representative cannot be instructed to do anything that is against the law such as to engage in money-laundering with the adult's funds or deliberately prevent filing of the adult's taxes.