

TIPS FOR USING THE RA7ALL OR THE RA7F+L FOR FINANCES AND LEGAL MATTERS

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This information relates to the RA7ALL and RA7F+L forms provided by the Nidus Resource Centre.

- Find RA forms provided by the Nidus Resource Centre at <https://nidus.ca/ra-forms/>
- We recommend you also read about duty to protect privacy and right to access information in the [General Guidelines for Using RA](#)
- Nidus also has specific tips for [Using the RA7ALL or RA7H+P for health and personal care matters.](#)

During the development of the Representation Agreement Act (RA Act), many people (spouses, adult children, other relatives, good friends) told stories of advocating for the wishes of a loved one and being ignored. The idea of the Representation Agreement is to give legal status to family and friends (personal supporters). Representatives still have to advocate, but the Agreement gives them a ‘foot in the door.’

Click for a [snapshot](#) of financial and legal authorities in RA7ALL or RA7F+L.

****Many in the community living sector (and some other sectors) think the RA7 is like a government-approved benefit that one ‘applies’ for. It is not. It is a legal document like a type of power of attorney or a Will – only made to be more inclusive and accessible.**

The capability requirements in the laws for making types of power of attorney and making a Will discriminate against adults with cognitive difficulties. So, in 1989, individuals and community groups and human rights lawyers in BC set out to create new legislation (RA7) with a different view of capability to accommodate adults with cognitive difficulties.

The RA7 is governed by the BC RA Act. Like most actions (e.g. smoking) or legal arrangements (e.g. contracts, Committeeship) people undertake, the RA7 can be challenged in court. Nidus has put lots of time and effort into providing information about the law to help avoid costly court actions based on lack of information. **Because the RA7 is ‘new’ and came about in a non-traditional way, it is vulnerable to misinformation.**

HOW TO GET STARTED? – GET INFORMED!

These steps are NOT for paid staff such as the home share provider, group home staff, community living agency or CLBC staff. The representative is the one who has legal. The representative needs to be informed and involved. The representative can NOT delegate authority to these others.

1. On RA7ALL or RA7F+L forms by Nidus look under heading “Authority of representative.”

Check for **authority for routine management of financial affairs** (link to definition below).

Check for authority for **legal** matters—the wording from the legislation is:

*Obtaining **legal services** and instructing counsel to begin proceedings (except divorce) or to continue, compromise, defend or settle any legal proceedings on my behalf (RA Act section 7(1)(d)).*

*A representative can also act as the adult’s **litigation guardian** (act on behalf of the adult in a court action) in any proceedings related to the above, unless the court orders otherwise (RA Act section 35(1))*

2. If the Agreement includes authority for routine finances, **an extra safeguard** is required. The only exception is if the representative is the adult’s spouse. If the representative (or alternate) is NOT the adult’s spouse, make sure someone is named in the **monitor** role. A monitor is required in the Basic RA7ALL and Basic RA7F+L provided for free on the Nidus website.
3. Read the **definition of ‘routine management of financial affairs.’** Pay attention to **the list of EXCLUSIONS (what a representative can NOT do)**

- Nidus has a [fact sheet about the definition of routine finances](#) with commentary.
- OR
- Read the definition in the legislation – [Representation Agreement Regulation](#)

Some things about what a representative can do are open to interpretation (the same is true for other laws) – **get informed so you can advocate.**

4. Read about the [built-in safeguards for the RA7.](#)
5. Be prepared to provide the original (or copy) of the RA7All or RA7F+L – it is proof of the representative’s authority.

Nidus gets questions from representatives asking if there is a need for a Power of Attorney. Usually, the answer is NO. The representative is misinformed or misunderstands.

- First, you must consider capability requirements. The adult would go to a lawyer or notary public to give instructions for drafting the Enduring Power of Attorney. Adults with cognitive difficulties often cannot make any type of power of attorney. That is the reason for the RA7.
- Second, if the Representation Agreement includes authority for routine finances and legal matters from section 7 then this would overlap with the Enduring Power of Attorney.

DON'T FORGET THE BIG PICTURE

This material is focused on authorities.

- A representative has authority to assist the adult with decision making or to act on behalf of the adult. The primary intent of a Representation Agreement is to assist an adult to participate in decisions affecting their life. The RA Act is based on self-determination.
- A representative who acts on behalf of an adult also has **legal duties**.
 - Legal duties are outlined in [section 16 of the RA Act](#). When assisting an adult to make decisions or making decisions on the adult's behalf a representative needs to focus on the adult's wishes and preferences (as communicated verbally or non-verbally).
 - A representative must keep records. There are some specifics for financial matters. These are spelled out in the [Representation Agreement Regulation section 3](#).
- There are circumstances when the RA7ALL or RA7F+L are ended, or the authority for finances is automatically ended. For example:
 - A representative **cannot continue to act if they were the adult's spouse** when named in the Representation Agreement and later the spousal relationship broke down according to the definition in the BC Family Law Act, section 3 (4). (The definition of spouse includes living common law – opposite sex and same sex.) Unless another representative or an alternate is named in the Agreement, the entire Agreement ends.
 - If the adult **revokes** (cancels) the RA7ALL or RA7H+P, the entire Agreement is ended.
 - If a judge issues a **court-order** for Committeeship, the entire Representation Agreement is ended – unless the judge says it is not. (A request to keep all or part of a RA must be submitted at the beginning before the judge issues the court-order.)
 - Authority for finances is automatically ended:
 - > if the adult is bankrupt; or
 - > if the representative is bankrupt or convicted of dishonesty and there is no alternate to take over; or
 - > if there is no extra-safeguard (e.g. the monitor dies or resigns).

TIP: If an ex-spouse is to be named as a representative or alternate in the adult's Representation Agreement, they should be called a friend of the adult to avoid misinterpretation or confusion.

When signing on behalf of an adult – e.g. a cheque on adult's bank account, or a contract to hire a legal professional – the representative signs their own name ' , per Representation Agreement.' The representative does NOT sign the adult's name, that would be fraud.

FINANCIAL MATTERS

What authority does a representative have?

First, make sure YOU are on the right track:

- A representative can **NOT** use the RA7 to set up a **joint bank account** with the adult.
 - There is no need to do this as the RA7All or RA7F+L gives legal authority to the representative to access the adult's bank account and help with banking matters.

- There are ethical reasons not to.
 - > Joint bank accounts have no safeguards. Even if the money in the bank account only belongs to one owner, the other owner listed on the joint bank account has full access to all the money.
 - > The RA7 provides accountability and protection for the adult, the representative and the financial institution.
- A representative can NOT use the RA7 to set up a bank account ‘in trust’ for the adult.
- Make sure you have read the **definition of routine management of financial affairs**. Link is on page 2.
- The representative is the individual who has legal authority to act on the adult’s behalf for routine finances – not the monitor, not government staff or paid support staff.

If putting Agreement on file with the adult’s financial institution

The adult or their representative:

1. Make an **appointment** to meet with a manager at the financial institution. Do NOT go to a teller, the first time.
2. Take the **original** RA7ALL or RA7F+L with you.
3. The manager can make a **true copy** (sometimes called certified copy) of the original RA.
 - Making a true copy is when the manager makes a photocopy of the original and then marks on the photocopy that it is a ‘true copy.’ The true copy is for the files of the financial institution; the original must be returned.
4. Once the true copy is on file, the representative can deal with a teller. Be prepared to show identification. The teller needs to make sure the representative is the person named in the RA.
 - The RA Act says a representative can get help with their duties from a qualified person. For example, a home share provider or support staff does not have authority to act on the adult’s behalf for finances but might be better able to do some practical things at the financial institution. The representative needs to take responsibility to arrange this.
 - The home share provider or support staff cannot make any decisions, this is up to the representative, but they could help carry out the decisions.
 - The best approach would be for the representative to give permission in writing. The representative should also have a discussion with the manager of the financial institution. It is always important to be open and transparent and ask for help on how to do things. The financial institution might want a copy of the written permission for their files.

Online banking and bank cards/ATM

- The issues of a representative getting/using the **adult’s bank/ATM card** and doing online banking are a grey area.
 - Some financial institutions have gone with it; some not.
 - Your best argument for this authority is that it is not specifically excluded from the definition of routine management of financial affairs.
 - Lawyers representing the financial institutions at discussions about the definition of routine finances argued in favour of putting remote/online banking on the list of what a

representative can do. The government did not add this. But it is also not on the list of exclusions (what a representative cannot do)

- Consider industry changes since 2001, when the current definition of routine finances was put into effect. Financial institutions have made online banking a preferred option for service delivery – and especially during Covid.
- It is a mystery why financial institutions have not implemented a system of authorizing representatives separately – for example, give them a bank/ATM card for the adult's account but in the name of the representative. This would allow the financial institution to track the representative's activities.

Adult's investments – some examples

- A representative can use RA7ALL or RA7F+L to deal with financial advisors and investment companies to manage the adult's investments – both for making and disposing of investments.
 - For example, sometimes a representative needs to 'cash in' an investment that is in the adult's name in order to pay for the adult's care needs.
 - Sometimes a representative needs to manage the adult's RRSP or convert it to a RIF. Be sure to provide a copy of the RA7All or RA7F+L. You might also need to provide a copy of the definition of routine finances as this may all be new to them.
- A representative may use the RA7ALL or RA7F+L to purchase a Tax Free Savings Account (TFSA) on behalf of the adult – just be sure the designated beneficiary is the adult's estate as required by the definition of routine finances.
- A representative cannot delegate their authority to make decisions EXCEPT with respect to decisions about investments – but only to a qualified investment specialist (like a mutual fund manager).
 - > See definitions in the [Representation Agreement Regulation section 4](#).

Registered Disability Savings Plan (RDSP)

- The RDSP is a type of savings plan for people with disabilities. Sometimes it is set up before the individual with a disability becomes an adult. If not, the RA7All or RA7F+L gives authority to apply for it, set it up and manage it.
 - The adult is the beneficiary of the RDSP and the representative can act as the Account Manager.
 - The RDSP is administered by the Canada Revenue Agency (CRA)
 - > One of the steps to qualify is for the recipient to obtain the Disability Tax Credit (CRA). The RA7ALL or RA7F+L can be used for this.
 - Financial institutions offer the RDSP as one of its investment products, like they offer the RRSP or TFSAs
 - There are many rules for managing a RDSP. The financial institution should provide information. You can also contact rdsp.com

Other CRA matters

- CRA is a federal agency. If you read the definition of routine finances, it includes dealing with CRA. A representative named in the RA7ALL or RA7F+L has authority to act on the adult's behalf for CRA.
 - This is important because most adults who would make a RA7ALL or RA7F+L would not be considered capable to sign the CRA consent. The CRA consent is like other consents and based on contract law and that it is signed by an individual who has the cognitive ability to understand.
- CRA allows a 'legal representative' to do things on behalf of an adult. This is CRA terminology but fits the RA7ALL or RA7F+L perfectly.
- The most common reason a representative has to contact CRA is to get information. For example, rates charged for facility care often depend on the adult's income tax return. If the representative does not know this information, they need to contact CRA.

TIP: We have found it more reliable to deal with CRA by regular mail. But they may be getting better with phone and online. ASK them:

- How to get the RA7ALL or RA7F+L on file with CRA for the future or ongoing purposes?
- How to help the adult set up an online account with CRA and help them manage it? (The RA7ALL or RA7F+L gives the representative legal authority to be the adult's 'legal representative' for CRA purposes)

Service Canada – Federal Pension, Canada Dental Plan

- Yes, a representative named in a RA7ALL or RA7F+L can deal with federal government pension matters (Old Age Security and Canada Pension Plan and Guaranteed Income Supplement if applicable.)
 - A representative can instruct Service Canada to direct the adult's pension funds to a different bank account. Be sure the bank account is in the adult's name. The RA7ALL or RA7F+L allows a representative to deal with the adult's bank account on the adult's behalf – but it needs to be in the adult's name. (And this is the beauty and strength of RAs – ownership and rights stay with the adult. This is consistent with the principle of self-determination. It is ethical and it is affirming of the individual and their personhood.)
- Service Canada also administers the federal Dental Plan. You can apply online.
- A representative can apply for these benefits on behalf of an eligible adult.

Person with Disability Benefits (PWD) - BC

- Yes, a representative named in the RA7ALL or RA7F+L can deal with BC government PWD benefits on behalf of the adult. (PWD is administered under the BC Ministry of Social Development and Poverty Reduction).
- Staff of this BC Ministry sometimes give misinformation and say the Representation Agreement is not accepted. This is not true.
 - It may be that there is a lot of staff turnover; but government staff should know the laws of BC.

Other BC benefits

- When the homeowner grant was administered by municipalities, the RA7ALL or RA7F+L was recognized and even mentioned with educational materials about the grant.
 - The homeowner grant now administered provincially by the Ministry of Finance and they recognize the RA7 authority for routine finances.

ICBC Programs – Autoplan and Licensing - BC

- As you can read in the definition of routine finances, a representative can do some transactions with respect to motor vehicles including insurance renewals or sale of a vehicle.
 - ICBC Autoplan was one of the first agencies in BC to write policies to recognize the authority for routine finances in a RA7. Their policies were extremely respectful of people with cognitive impairment – a model!
 - We find that most Autoplan Agents/Brokers are trained and have policies to refer to that are consistent with what a representative can do according to the definition of routine finances. If you run into a problem, try suggesting ICBC procedure with topic ID *P068C0*).
 - Of course the Agent/Broker will have to see the RA7ALL or RA7F+L to verify the authority of the representative.
- A few years ago, policies were put in place to recognize the RA7 when a representative applied to obtain BC ID for an adult.
 - A BC ID is a type of photo ID issued to people who do not have a BC driver's license. This can be for someone with a developmental disability, or it may be an adult who can no longer drive due to a brain injury or advanced dementia or serious stroke.
 - If the adult had a driver's license, it is turned in and exchanged for a BC ID.

Insurance

- Dealing with insurance companies might involve authority for finances and for legal matters. It depends on the issue. In terms of financial matters, read the definition of routine finances for any special conditions.
- A representative may need to file for compensation and may need to sign for the claim on behalf of the adult (authority for legal matters). A representative may then need to manage any financial award on behalf of the adult—for the benefit of the adult.

Setting up a Trust?

There are different kinds of Trusts and different institutions may have different definitions. CRA defines the RDSP as a type of Trust – this seems a more modern view. There is some debate whether a representative has authority to set up a traditional Trust, although it is not specifically excluded in the definition of routine finances.

- Sometimes a Trust is created in a Will and when the will-maker dies, the terms of the Trust come to life.
 - The will-maker likely set up a Trust to manage the inheritance of a relative with a disability – the inheritance goes into the Trust rather than go directly to the individual with a disability. This can be a way to protect the person with a disability from clawbacks of their government benefits.
 - A Trust will name Trustees.

- The Trustee will look after the inheritance in the Trust.
- A representative can advocate with the adult for the Trustee to release funds from the inheritance.
- The Trustee has to follow the terms of the Trust so a representative wants to ensure their advocacy is reasonable within the terms.
- Some definitions of a Trust would include the RRSP and RDSP. Many would not think of the RRSP or RDSP as being a type of Trust, probably because these are thought of as financial documents and the paperwork is managed by financial institutions or financial advisors. But CRA – which recognizes the RA7 – classifies the RDSP as a type of Trust.
- As mentioned earlier, representatives named in a RA7ALL or RA7F+L have been able to set up a RDSP. The definition of ‘routine management of financial affairs’ specifically mentions a representative can establish a RRSP. Therefore, it is logical to think a representative named in a RA7ALL or RA7F+L can set up other kinds of Trusts.
 - But a representative may face challenges if creating a Trust from scratch. The lawyer you go to about creating a Trust may not be willing to recognize the RA7ALL or the RA7F+L.
 - Some lawyers were skeptical about the development of the RA7 and this attitude seems to remain some 24+ years later. (Lawyers are also skeptical about e-Wills as the Ministry of Attorney General staff are finding out – even though e-Wills are also set out in legislation.)
 - > This is not all lawyers, as we would never get the RA7 into law if it wasn’t for help from lawyers.
 - Here are some things you can argue in favour:
 - > The law gives the representative legal authority to ‘obtain legal services.’ (This is an authority in the RA7ALL and the RA7F+L – look under heading ‘Authority of Representative’.)
 - > The [definition](#) for the authority of routine management of financial affairs includes the RRSP (a type of Trust) (see 2(1)(p) and has a ‘catch-all’ provision for what a representative can do (see 2(1)(aa))
 - > Also, setting up a Trust is not on the list of exclusions. It is not listed under what a representative cannot do (Representation Agreement Regulation section 2(2)).

Representatives have found some other solutions to setting up a Trust from scratch:

- An adult can have up to \$100K in their bank account before clawbacks on their PWD (BC government benefits to persons with disabilities). The bank account limit used to be \$3K so this has made a big difference.
- In BC, the RDSP is exempt from PWD clawbacks so representatives are setting up an RDSP for the adult and putting the inheritance in the RDSP.
- These may not be ideal solutions but until descriptions change, it may be an option.

New benefits, new procedures

Change is inevitable and the pace of life seems to be faster than ever. Legislation is slow to change, and if the legislation is too prescriptive (details usually based on current conditions) then it can quickly become stale-dated.

- In the definition of routine finances, be sure to notice the ‘catch all’ provision as you may need to use it as new benefits are offered. See [Representation Agreement Regulation section 2\(1\)\(aa\)](#)
 - For example, the new federal Disability Benefit, the Vacancy-Tax form....

What authority does a representative NOT have for finances?

You are encouraged to review the list of exclusions under the [definition of routine finances](#).

Some restrictions (like for joint ownership) are outlined in the duties of a representative ([section 16, RA Act](#))

Under the authority for routine finances a representative’s authority enables them to maintain (and in some cases enhance) the adult’s financial situation. The representative does not have authority for things that might put the adult into debt (or more debt).

- A representative does NOT have authority:
 - To buy or sell real estate on behalf of the adult – or do anything involving Land Title.
 - To take out a new line of credit or guarantee a loan for someone else on behalf of the adult.
 - To use the adult’s money for themselves or others (except charities with some conditions).
 - To use the adult’s credit cards.
 - To make or change the adult’s Will on the adult’s behalf.

LEGAL MATTERS

- As mentioned, claims for compensation on behalf of an adult may require authority to deal with legal matters. The RA7ALL or RA7F+L allow the representative to do this.
- A representative named in a RA7ALL or RA7F+L has also been able to ‘sign-off’ on behalf of the adult for an **executor’s accounts**.
 - This is important. The adult may be a beneficiary under the deceased’s Will and if all beneficiaries are required to approve the accounts, this enables the adult to get their inheritance, as entitled.
 - The RA7ALL or RA7F+L has been recognized for this purpose in other provinces of Canada.
- While a representative cannot initiate divorce proceedings on behalf of an adult, the representative can ensure the adult receives **a fair settlement if the divorce** is initiated by the other party.
- There are cases where a representative has acted on behalf of the adult in **small claim court** and had to involve police or obtain a restraining order in cases of abuse.
- Lawyers seem to take a different approach to criminal law than for civil law cases. This often means that a representative (and the Representation Agreement) are not recognized in criminal law cases. This may be why there is a dis-proportionate number of individuals from marginalized groups in prison...
 - Remember the RA Act says **no one can prevent the monitor from having access** to the adult. We have used this provision for an adult with FASD who was in jail – the representative (and others) was concerned about the adult’s health and treatment, and, particularly concerned about possible racism directed at the adult who was indigenous.

WHAT IF THE RA IS REFUSED?

Most of the following examples and tips have to do with financial matters as that has been the most frequent use of Agreements to date.

1. Ask why it is refused?

- It is best to get reasons for refusal in writing, but you can take notes.

TIP: Do not go to the appointment alone. It would be good for the monitor to go with the representative. Having another person present means someone else hears about the refusal and can help provide information and take notes.

- Maybe the form was not filled in correctly.
- Maybe there is concern about abuse or money laundering.
- Sometimes staff at the local branch are not educated on Representation Agreements.
 - When you bring in the RA7All or RA7F+L it might be the first one the staff have seen.
 - Sometimes the staff refuse to even look at the document. Maybe they have been warned that people make up paperwork that is not based on legislation.
 - > It can be easier to say 'no' than to do research.
 - > Saying 'no' sometimes makes people go away quietly.

2. You want to be polite but you can be firm.

- The Representation Agreement Act is a LAW in BC (since 2000).
- If things cannot be resolved at the branch level, escalate the issue (go higher up).
 - For example, ask the branch manager to send the true copy to the head office.

TIP: Nidus suggests contacting your MLA. If you are dealing with one of the national banks, also contact the MP.

- Sometimes you get passed around, especially if you are dealing with a national bank. The MLA might say 'it is a federal issue,' the MP might say 'it is provincial legislation.'
 - In order to operate in BC, national banks have to go by the laws and rules in BC. They do this for mortgages and other financial products. So, their response to the RA7 needs to go by BC legislation, not policies from their head office in Ontario.
 - > You also need to know that there is nothing in law to compel a financial institution to accept the RA7. However, they accept Wills and types of power of attorney and some handout their own Power of Attorney forms (do NOT use). You may notice contradictions among their policies and this often happens with large systems – change can take a long time.
- The Accessible British Columbia Act was put into effect in 2021. It calls on the BC government and various BC agencies to ensure policies and services are accessible. The RA7 is very helpful to them for this. Unfortunately, the legislation does not currently apply to financial institutions, but many financial institutions already have policies to state they are accessible and inclusive. You might want to question this.
 - It seems contradictory if banks and credit unions (or their lawyers) create barriers for the RA7All or RA7F+L when these same institutions have policies about inclusion and diversity. On the other hand, reports of money laundering and financial abuse have put more pressure on the financial services industry. Fear can cause people and institutions to lose perspective.

TIPS - Be cautious:

- If you are told by a financial institution to get a letter from the adult's doctor to back up the RA7ALL or RA7F+L – this may not be a good idea. Doctors tend to write letters about how incapable an adult is and then this backfires.
- If you are told that the RA7 must be signed by a lawyer or notary public – this is NOT true.
- If you are told you have to pay for a lawyer to review the RA7 – do NOT do this, it is not true.

EXAMPLES OF IMPOSED AUTHORITIES RELATED TO FINANCIAL & LEGAL MATTERS

Making a RA7ALL or RA7F+L is a way that an adult may avoid imposed authority.

- **Adult Guardianship (called Committeeship in BC) may be IMPOSED** on an adult.
 - Adult Guardianship/Committeeship is based on an old philosophy.
 - > Someone can hire a lawyer and apply to the Supreme Court of BC to be appointed by a judge to take over the adult's decisions for financial and legal matters (committee of estate).
 - > There is a way, without going through court, the Public Guardian and Trustee (PGT) can take over an adult's financial and legal affairs (become committee of estate or property guardian).
 - Under guardianship/Committeeship:
 - > Adults lose their rights – some call this civil death.
 - > Adults becomes a 'non-person' under the law.
 - > Once adult guardianship/Committeeship is in place, it is difficult to reverse.
 - Sometimes a spouse or family members of a senior have to pursue Committeeship because the 'routine finances' in the RA7ALL does not include dealing with the adult's real estate. However, Committeeship can take 3 or 4 months or longer and meantime the RA7ALL can help with many practical things like paying bills.
- **Trustee of Pension** is another type of **imposed authority**.
 - Trustee of Pension is a program through Service Canada but only for the adult's federal pension income.
 - > It does not authorize dealing with other financial matters like taxes or banking.
 - > It also has nothing to do with health care, personal care or legal matters.
 - > Health care providers and the Public Guardian and Trustee will sometimes refer an adult's finances to the 'Bloom Group.' The Bloom Group applies to act as Trustee of Pension and charges fees for its services.