

CHECKLIST FOR LAWYERS PLANNING TO PROTECT CLIENTS' INTERESTS IN THE EVENT OF THE LAWYER'S DEATH, DISABILITY, IMPAIRMENT, OR INCAPACITY

1. Use retainer agreements or engagement letters that state you have arranged for an Assisting Attorney to close your practice in the event of death, disability, impairment, or incapacity and have arranged for an Authorized Signer to issue refunds from your lawyer trust account.
2. Have a thorough and up-to-date office procedure manual that includes information on:
 - a. How to check for a conflict of interest;
 - b. How to use the calendaring system;
 - c. How to generate a list of active client files, including client names, addresses, and phone numbers;
 - d. Where client ledgers for your lawyer trust account are kept; or in the alternative, how to pull client trust account balances from your trust accounting software;
 - e. How the open/active files are organized;
 - f. How the closed files are organized and assigned numbers;
 - g. Where the closed files are kept and how to access them;
 - h. The office policy on keeping original client documents;
 - i. Where original client documents are kept;
 - j. Where the safe deposit box is located and how to access it;
 - k. The bank name, address, account signers, and account numbers for all law office bank accounts;
 - l. The location of all law office bank account records (trust and general);
 - m. Where to find, or who knows about passwords for computers, cell phones, digital data and other technology used in your practice.
 - n. How to access your voice mail (or answering machine) and the access code numbers; and
 - o. Where the post office or other mail service box is located and how to access it.
3. Make sure all your file deadlines (including follow-up deadlines) are calendared.
4. Document your files.
5. Keep your time and billing records up-to-date.
6. Avoid keeping original client documents, such as wills and other estate planning documents.
7. Have a written agreement with an attorney who will close your practice (the "Assisting Attorney") that outlines the responsibilities involved in closing your practice. Determine whether the Assisting Attorney will also be your personal attorney. Choose an Assisting Attorney who is sensitive to conflict-of-interest issues.
8. If your written agreement authorizes the Assisting Attorney to sign general account checks, follow the procedures required by your local bank. Decide whether you want to

authorize access at all times, at specific times, or only on the happening of a specific event. In some instances, you and the Assisting Attorney will have to sign bank forms authorizing the Assisting Attorney to have access to your general account. (See *The Duty to Plan Ahead, Implementing the Plan*, in Chapter 1 of this handbook.)

9. If your written agreement provides for an Authorized Signer for your trust account checks, follow the procedures required by your local bank. Decide whether you want to authorize access at all times, at specific times, or only on the happening of a specific event. In most instances, you and the Authorized Signer will have to sign bank forms providing for access to your trust account. (See *The Duty to Plan Ahead, Access to the Trust Account*, in Chapter 1 of this handbook.) Choose your Authorized Signer wisely; he or she will have access to your clients' funds.
10. Familiarize your Assisting Attorney with your office systems and keep him or her apprised of office changes.
11. Introduce your Assisting Attorney and/or Authorized Signer to your office staff. Make certain your staff knows where you keep the written agreement and how to contact the Assisting Attorney and/or Authorized Signer if an emergency occurs before or after office hours. If you practice without regular staff, make sure your Assisting Attorney and/or Authorized Signer knows whom to contact (the landlord, for example) to gain access to your office.
12. Inform your spouse, partner, or closest living relative and the personal representative of your estate of the existence of this agreement and how to contact the Assisting Attorney and/or Authorized Signer.
13. Forward the name, address, and phone number of your Assisting Attorney to the malpractice carrier, if any, and provide the information to the Idaho State Bar Licensing, P.O. Box 895, Boise, ID 83701-0895 and on your annual licensing form.

(See *Notice of Designated Assisting Attorney* provided in Chapter 4 of this handbook.) This will enable the malpractice carrier and clients to locate the Assisting Attorney in the event of your death, disability, impairment, or incapacity.
14. Renew your written agreement with your Assisting Attorney and/or Authorized Signer annually.
15. Review your fee agreement each year to make sure that the name of your Assisting Attorney is current.
16. Fill out the *Law Office List of Contacts* practice aid provided in Chapter 4 of this handbook. Make sure your Assisting Attorney has a copy.