

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

1. Consider using retainer agreements with your clients that state that you have arranged for a Successor Attorney to manage or close your practice in the event of your death, your temporary or permanent disability, impairment or incapacity, and identifying such attorney. Be sure to keep his/her identity current with your clients.

2. Have a thorough and up-to-date office procedure manual that includes information on:
 - a. How to check for conflicts of interest;
 - b. How to use the calendaring system;
 - c. How to generate and maintain a current list of active client files, including client names, addresses, and phone numbers and email addresses;
 - d. Where client ledgers are kept and if locked how to obtain access to them;
 - e. How the open/active files are organized;
 - f. How the closed files are organized and their assigned numbers;
 - g. Where the closed files are kept and how to access them;
 - h. The office policy on keeping original documents of clients and how to access them;
 - i. Where original client documents are kept and how to access them;
 - j. Where the safe deposit box is located, its number, 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, the computer passwords;
 - n. How to access your voice mail (or answering machine) and the access code numbers;
 - o. Business and personal insurance policies with contact information for brokers and insurance companies;

- p. How to access all current and past employee service personnel, provider and facility and equipment records.
3. Make sure all your file deadlines (including follow-up deadlines) are on your calendaring system.
4. Document your files. (Keep a master list of files, past and present. File documents in appropriate files.)
5. Keep your time and billing records up to date.
6. Have a written agreement and/or power of attorney with an attorney who will manage or close your practice (the “Successor Attorney”) that outlines the responsibilities delegated to the Successor Attorney who will be managing or closing your practice. Include a procedure to enable your Successor Attorney to determine whether your incapacity renders you unable to practice law, and complete, in advance, a medical release and authorization form as required by HIPAA permitting disclosure of medical information to assist in this determination. (See HIPAA release form.) Determine whether the Successor Attorney also will be your personal attorney. Choose a Successor Attorney who is sensitive to conflict of interest issues.
7. If your written agreement authorizes the Successor Attorney to sign trust or 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 upon the happening of a specific event. In some instances, you and the Successor Attorney will be required to sign bank forms authorizing the Successor Attorney to have access to your trust or general account. Choose your Successor Attorney wisely for he or she may have access to your clients’ funds.
8. Familiarize your Successor Attorney with your office systems and keep him or her apprised of office changes.
9. Introduce your Successor Attorney to your office staff. Make certain your staff knows where you keep the written agreement with your Successor Attorney and how to contact the Successor Attorney if an emergency occurs before or after office hours. If you practice without a regular staff, make sure your Successor Attorney knows whom to contact (the landlord, for example) to gain access to your office.
10. Inform your spouse or closest living relative and your named executor of the existence of this agreement and how to contact the Successor Attorney.
11. Renew your written agreement with your Successor Attorney each year. If you include the name of your Successor Attorney in your retainer agreement, make sure the information concerning that attorney is current.