

PRACTICE CLOSURE OR TRANSFER DUE TO ILLNESS, DISABILITY OR DEATH

A lawyer's duty of competent representation includes safeguarding client interests in the event of his or her death, disability, impairment, or incapacity. Ideally, as a sole practitioner or a lawyer in a small firm you should make arrangements for an assisting lawyer to step into your practice in the event that you are unable to continue. All critical information regarding client matters and the operation of your practice should be stored in a location that can be easily and efficiently accessed so that your succeeding lawyer can continue, close or transfer your practice on your behalf. Such preparations for the unexpected should have been made shortly after you opened your law practice or firm.

However, in the event you are consulting this Guide because you have been asked to assist in managing or concluding the practice of a lawyer that has not put such contingency plans in place, consider the information outlined below. For guidance, contact the Law Society's Trustee Services department at 416-947-3366 or toll-free 1-800-668-7380 extension 3366.

✓ Checklist

- ❑ Depending on the situation, determine whether the lawyer has a power of attorney in place for his or her practice, trust account(s) and general account(s) or a will that provides instructions for these. If not, discuss with the financial institution what will be required to continue to manage the trust and general funds until the lawyer can return to practice, or until the practice can be transferred to you or another lawyer.
- ❑ Determine whether the lawyer has an office manual outlining the procedures for the operational aspect of the law practice that you may review. If not, meet with the lawyer's support staff to discuss these procedures.
- ❑ Do an initial check for conflicts to ensure that you are not precluded from assisting with any of the lawyer's outstanding client matters, whether you ultimately take over the matters or refer the clients to another lawyer.
- ❑ Review the lawyer's reminder or calendaring system to determine immediate or impending deadlines and appearances that must be addressed on the lawyer's behalf.
- ❑ Briefly review the lawyer's open files to familiarize yourself with current client matters and to determine which matters you can assist with, and those you will refer out.
- ❑ Review the lawyer's time and billing records to determine which clients can be billed for services already rendered. Prepare and deliver invoices and ensure payment to manage the accounts receivables until the lawyer can return to practice or the practice can be transferred.
- ❑ Review the lawyer's accounts receivables to ensure that his or her financial obligations continue to be fulfilled until the lawyer can return to practice or the practice can be transferred.

- Ensure that you fulfill the lawyer's obligations regarding his or her employed staff, including payroll, benefits and remittances for income tax, Employment Insurance and Canada Pension Plan.
- Advise the lawyer's clients in writing of the lawyer's inability to continue to act, and why. Indicate whether you are able to assist in the matter or the client must obtain another lawyer, and whether you can refer the clients to an appropriate lawyer. See **Letter From Assisting Lawyer to Client**.
- Notify the Law Society of Upper Canada and LAWPRO[®] to advise that the lawyer is temporarily or permanently unable to practise law, providing relevant dates and details. See **Letter From Assisting Lawyer to Law Society and LAWPRO[®]**.