

# REPLACEMENT LAWYER CHECKLIST FOR TAKING OVER THE LAW PRACTICE OF ANOTHER LAWYER

Current as at October 2014

## 1. Steps to Take Before and Shortly After Entering the Law Practice

- Determine whether you have the authority to take over the law practice and if so, the scope of your authority

*If you do not have the authority, determine what steps you will need to take in order to obtain the authority. If you have the authority, determine whether your role is to wind down the law practice or preserve it.*

- Ensure that you have appropriate professional liability insurance in place
- Secure the office, client property, client files and all law firm bank accounts (trust and general)
- Meet with the law firm staff to address employment and related issues
- If the lawyer has a Teraview Account advise Teranet of the lawyer's death or disability and determine how you will deal with documents that require electronic registration.
- Determine whether there are any matters that require your immediate attention

*This might involve: reviewing the firm's law office procedural manual, if any, the firm's calendaring or tickler system, books and records and accounts payable, the lawyer's desk diary or calendar, any unopened mail, email and facsimiles; retrieving voice mail messages and speaking to staff and others.*

- If there are matters that require your immediate attention, consider whether you have any conflicts of interest and how you will deal with these

*If you have a conflict of interest and cannot act, you may need to make arrangements for another lawyer to deal with the matter.*

- Contact clients for matters that are urgent and obtain instructions to act on their behalf

*Depending on the nature of the matter, you may need to obtain adjournments or extensions of closing dates or other deadlines.*

- Advise the court and opposing counsel that the Planning Lawyer has died or is incapacitated
- Determine whether you have access to the law firm bank accounts (trust and general) and lines of credit or what steps you will need to take to gain access
- Establish how you will be compensated

## 2. Additional Steps to be Taken Once You Have Entered the Law Practice

### Office Procedures

- Familiarize yourself with the firm's office procedures

*This might involve reviewing the firm's office procedure manual and/or interviewing staff to obtain an understanding of the law firm procedures.*

### **Conflict Checking System**

- Determine the law firm procedure for checking for conflicts of interest
- Do a conflicts check before you start working on files
- If there is a conflict of interest, determine how you will deal with it

### **Calendar/Tickler System**

- Determine the law firm procedure(s) used to record deadlines and significant dates
- Ensure the calendar or tickler system is up to date
- Identify any matters that need immediate or early attention and determine how you will deal with these

### **Files**

- Locate the list of active files including names and addresses of clients
- Locate the list of closed files
- Determine where active/closed files are stored
- Determine how files are organized
- Determine how the filing system works – opening, closing, filing, organization of the information in the file, destroying the file
- Review the status of active files and determine how you will deal with each file
- Determine how you will deal with closed files

### **Notification of Clients**

- Notify clients of the death or disability of the Planning Lawyer

*If the client wishes to retain you to act in the matter, you should consider confirming in writing the terms of the retainer with the client. If the client wishes to retain another lawyer, prepare the file for transfer and consider having the client execute either a direction authorizing you to release the file to another lawyer or a receipt confirming the delivery of the file to the client and the termination of the retainer with the Planning Lawyer. In addition, if applicable, notify the court or tribunal that the Planning Lawyer is no longer acting and take steps to ensure that the Planning Lawyer has been removed as the lawyer of record and notify the opposing lawyer that the Planning Lawyer is no longer acting with regards to the matter.*

### **Law Firm Bank Accounts/ Financial Records**

- Identify the bank accounts related to the law practice (trust, general, electronic registration bank account, special trust accounts)
- Notify the bank(s) of the death or disability of the lawyer
- Determine who has signing authority on the account(s) and make changes if required

- Deposit any funds that require depositing
- Notify the law firm's accountant/bookkeeper of the death or disability of the Planning Lawyer
- Determine the type of bookkeeping system in place
- Locate and review accounting records, cheque books and most recent bank statements
- Determine the procedure used for recordkeeping and the individuals involved
- Ensure that the books and records are up to date
- Determine how the books and records will be kept up to date
- Determine whether you need to establish any internal controls regarding the firm's books and records

### ***Client Property***

- Determine the firm's policy and procedure with regards to client property
- Locate safety deposit box, key and inventory of contents
- Examine contents and make inventory of contents
- Secure all client property in the Planning Lawyer's possession
- Notify clients of the death or disability of the Planning Lawyer and how they may retrieve their property

### ***Original Documents***

- Determine the firm policy regarding original documents including last will and testaments and powers of attorney
- Locate any original documents being stored and determine how you will deal with these (return to owner or continue storing)
- Notify clients of the death or disability of the Planning Lawyer and how they may retrieve their original documents
- If a client cannot be reached determine how you will deal with that client's original documents

### ***Mail, Email and Facsimiles***

- Review unanswered mail, email and facsimiles and determine whether responses are required and if so, when and how responses will be prepared
- Determine the office procedure for filing mail, email and facsimiles
- Determine how you will handle mail, email and facsimiles going forward

### ***Client Billing***

- Determine the type of billing system
- Determine how and when bills are prepared

- Determine how and who will prepare bills going forward
- Identify accounts receivable and procedures used for collection
- Determine what steps if any should be taken to collect account receivables

### ***Docketing System***

- Determine the type of timekeeping system used
- Locate time records
- Determine if and how time records will be kept going forward

### ***Accounts Payable***

- Determine whether there are any lines of credit or loans and how you will deal with these
- Determine the status of accounts payable (operating costs, taxes, insurance, rent, utilities, supplies, services, benefits, employee expenses, withholding taxes, levies, insurance premiums, membership fees etc.)
- Determine how you will deal with the accounts payable
- Determine how you will deal with payroll and remittances

### ***Computer System***

- Determine the type of computer system and software applications in place
- Determine computer passwords
- Determine back-up procedures and locate and secure back-up disks or records
- Determine how back-up will occur going forward

### ***Other Office Equipment (telephones, photocopier, fax machine etc.)***

- Determine if equipment is owned or leased
- Determine how you will deal with equipment
- Determine how the equipment works
- Determine how the voicemail system works
- Determine how phone calls, voicemail messages, emails and facsimiles will be dealt with going forward

### ***Office Lease/Ownership***

- If the premises are leased, obtain a copy of the lease and review it, determine what payments if any need to be made, any notices to be given and whether the lease will continue
- If required, notify the landlord of the Planning Lawyer's death or incapacity
- If the premises are owned, determine if there are any outstanding payments relating to the premises, how they will be paid and how you will deal with the premises going forward

### ***Employees***

- Identify the employees of the Planning Lawyer and the terms of their employment
- Obtain advice if required regarding employer obligations and determine how the Planning Lawyer's employer obligations will be met
- Determine whether the employees will remain or be terminated

### ***Teraview Account***

- Notify Teranet of the death or disability of the Planning Lawyer
- Determine how electronic registration of documents relating to the Planning Lawyer's practice will be affected going forward

### ***Law Society and LAWPRO***

- Notify the Law Society of the change in status of the Planning Lawyer
- Notify LAWPRO<sup>®</sup> of the change in status of the Planning Lawyer

### **Additional Resources**

[Guide to Closing Your Law Practice](#)

[Guide for Retention and Destruction of Closed Client Files](#)

[Practice Management Guidelines](#)

[Bookkeeping Guide for Lawyers](#)

[Managing Practice Interruptions](#) (LawPRO<sup>®</sup>)