

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

1. Use retainer agreements 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. (See sample *Retainer Fee Agreement* available at www.osbplf.org. Select Practice Management > Forms > Engagement Letters and Fee Agreements.)
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 alternatively, 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, the computer passwords;
 - n. How to access your voicemail (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*

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

Duty to Plan Ahead, Implementing the Plan, in Chapter 1 of the PLF handbook, *Planning Ahead: A Guide to Protecting Your Clients' Interests.*)

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 the PLF handbook, *Planning Ahead: A Guide to Protecting Your Clients' Interests.*) 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 Professional Liability Fund each year:

Professional Liability Fund
Attention: Director of Personal and Practice Management Assistance
16037 SW Upper Boones Ferry Road, Suite 300, Tigard, OR 97224
PO Box 231600, Tigard, OR 97281-1600

(See *Notice of Designated Assisting Attorney* provided in Chapter 4 of the PLF handbook, *Planning Ahead: A Guide to Protecting Your Clients' Interests.*) This will enable the Professional Liability Fund 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 retainer 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 the PLF handbook, *Planning Ahead: A Guide to Protecting Your Clients' Interests.* Make sure your Assisting Attorney has a copy.

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

Call the Professional Liability Fund's practice management advisors at 503-639-6911 or 800-452-1639 for assistance or answers to any questions. The PLF handbook, *Planning Ahead: A Guide to Protecting Your Clients' Interests in the Event of Your Disability or Death* is available online at www.osbplf.org or by calling the PLF at the above number.

IMPORTANT NOTICES

This material is provided for informational purposes only and does not establish, report, or create the standard of care for attorneys in Oregon, nor does it represent a complete analysis of the topics presented. Readers should conduct their own appropriate legal research. The information presented does not represent legal advice. This information may not be republished, sold, or used in any other form without the written consent of the Oregon State Bar Professional Liability Fund except that permission is granted for Oregon lawyers to use and modify these materials for use in their own practices. © 2019 OSB Professional Liability Fund.