

# Practice Guide



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NUNAVUMI MALIGALIUQTIT  
LAW SOCIETY OF NUNAVUT  
BARREAU DU NUNAVUT



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## INTRODUCTION

This Guide is designed as a resource to assist members in carrying out their professional responsibilities as required under the *Legal Profession Act*<sup>1</sup> ["the Act"], the [Rules of the Law Society of Nunavut](#)<sup>2</sup> ["the Rules"] and the [Code of Professional Conduct](#)<sup>3</sup> ["the Code"]. It does so by consolidating and highlighting some of these key basic requirements and by providing practical guidance on practice management. The Guide is not intended to set any new standards or expectations for members and should not be interpreted as doing so.

The Act, Rules, Code, and many of the other resources referenced below are available on the Law Society's [Society Rules and Policies](#) page.<sup>4</sup>

<sup>1</sup> R.S.N.W.T. 1988, c. L-2. See the Law Society's [Society Rules and Policies](#) page for the 2014 Consolidation of the Act, and subsequent amendments [[lawsociety.nu.ca/en/society-rules-and-policies](#)]

<sup>2</sup> [lawsociety.nu.ca/sites/default/files/website-general/LSN Consolidated Rules June 24<sup>th</sup> 2021.pdf](#).

<sup>3</sup> [lawsociety.nu.ca/sites/default/files/NU Model Code of Conduct FINAL May 2016 adopted Nov 7 2016.pdf](#).

<sup>4</sup> [lawsociety.nu.ca/en/society-rules-and-policies](#).



# 1. REGULATORY REQUIREMENTS

These basic regulatory requirements apply to all members unless otherwise noted.

## 1.1 ANNUAL MEMBERSHIP

The membership term is from January 1 to December 31. Annual membership renewals must be completed by January 31.

Members who fail to renew their membership on or before January 31 will be automatically suspended from membership without notice.<sup>5</sup>

## 1.2 PROFESSIONAL LIABILITY INSURANCE

Unless exempted<sup>6</sup>, all active members in private practice or employed by the Legal Services Board must obtain professional liability insurance under the Law Society's group contract of insurance through the Canadian Lawyers Insurance Association (CLIA).<sup>7</sup>

The annual CLIA insurance coverage period runs from July 1 to June 30. The annual premium for your first year is automatically prorated when coverage begins on a date other than July 1.<sup>8</sup>

In accordance with CLIA policy<sup>9</sup>, the Law Society must provide coverage throughout the limitation period, and insurance coverage remains in place until the coverage period expires (July 1 annually). As a result, even if a member's coverage is cancelled before the end of the coverage period, reimbursement of any portion of the premium is not available.

See Rule 93 for complete details regarding exemptions. See the Law Society's [Insurance Coverage](#) page for more information regarding the CLIA insurance program.<sup>10</sup>

<sup>5</sup> Rule 56.

<sup>6</sup> See Rule 93 for exemptions.

<sup>7</sup> Rules 93 and 94.

<sup>8</sup> Rule 95.

<sup>9</sup> Available to insured members upon request.

<sup>10</sup> [lawsociety.nu.ca/en/insurance-coverage](https://lawsociety.nu.ca/en/insurance-coverage).

## 1.3 CLIENT IDENTIFICATION AND VERIFICATION

### 1.3.1 IDENTIFICATION

Members must identify their clients by collecting and recording specific information, along with the date:

- a. for individuals:
  - i. the client's full name;
  - ii. the client's home address and home telephone number;
  - iii. the client's occupation(s); and
  - iv. the address and telephone number of the client's place of work or employment, where applicable;
- b. for organizations:
  - i. the client's business address and business telephone number;
  - ii. other than a financial institution, public body or reporting issuer, the organization's incorporation or business identification number and the place of issue of its incorporation or business identification number, if applicable;
  - iii. other than a financial institution, public body or a reporting issuer, the general nature of the type of business or businesses or activity or activities engaged in by the client, where applicable; and
  - iv. the name and position of and contact information for the individual who is authorized to provide and gives instructions to the member with respect to the matter for which the member is retained;
- c. if the client is acting for or representing a third party, information about the third party as set out in clause (a) or (b) as applicable.<sup>11</sup>

The member's responsibility to identify clients may be fulfilled by the member directly or by any other member, associate or employee of the member's firm.<sup>12</sup>

The requirement to identify clients does not apply if:

- a. the member is providing legal services on behalf of their employer;
- b. the member is engaged by another lawyer as an agent to provide legal services to the client;
- c. the client was referred to the member by another lawyer who has already identified the client in accordance with the Rules;
- d. the member is providing legal services as a part of a duty counsel program, in most circumstances.<sup>13</sup>

### 1.3.2 VERIFICATION

A member who receives, pays or transfers funds must verify the client's identity<sup>14</sup> and must obtain from the client and record, with the date, information about the source of the funds.<sup>15</sup>

In many cases, a client's identity can be verified simply by viewing their original government-issued photo identification.

See Rules 80.61 and 80.62 for complete details on the process and acceptable documents or information to verify the identity of individuals and organizations.

Limited exemptions to the requirement to verify client identity include when the client is a financial institution, public body or reporting issuer, or where the funds are:

- a. paid by or to a financial institution or reporting issuer;
- b. received from the trust account of another lawyer;
- c. received from a peace officer, law enforcement agency or public official acting in their professional capacity;
- d. paid or received to pay a fine, penalty or bail;

<sup>11</sup> Rule 80.3.

<sup>12</sup> Rule 80.2(1).

<sup>13</sup> Rule 80.2(2).

<sup>14</sup> Rule 80.4.

<sup>15</sup> Rule 80.6(1)(a).

- e. received for payment of the member's fees and disbursements (including retainers received for future work to be done by the member for the client);
- f. transferred using an 'electronic funds transfer' as defined in Rule 80.<sup>16</sup>

The other exemptions from the requirement to verify client identity include situations where:

- a. members are providing legal services on behalf of their employer;
- b. members are engaged by a lawyer as agent to provide legal services to the client;
- c. the matter has been referred to the member by a lawyer who has already verified the client's identity in accordance with the Rules.<sup>17</sup>

The member's responsibility to verify client identity may be fulfilled by the member directly, or by any other member, associate or employee of the member's firm.<sup>18</sup> In certain circumstances an agent may be used, provided the requirements of Rule 80.6 are met.

For further details, see [Guidance for the Legal Profession: Your Professional Responsibility to Avoid Facilitating or Participating in Money Laundering and Terrorist Financing](#)<sup>19</sup>, issued by the Federation of Law Societies of Canada (FLSC).

#### 1.4 BOOKS OF ACCOUNT

The requirement to keep books of account applies to members in private practice only.

General accounting requirements include the following:

- a. Money received or disbursed from or on account of clients (trust moneys) must be readily distinguishable from money received or disbursed on the member's own account (general/operating).<sup>20</sup>

- b. Trust accounts must only be used for money that is directly related to the legal services the member is providing, and money held in trust must be paid out as soon as practicable upon completion of the legal services to which the money relates.<sup>21</sup>
- c. No money can be withdrawn from a client's trust account other than money properly required for:
  - i. payment to or on behalf of a client; or
  - ii. payment due to the member from a client relating to an account rendered and for which that client has sufficient money held in trust.<sup>22</sup>
- d. Any shortage in a client's trust account that is not rectified within 5 days of being discovered or any other situation where the member will be unable to deliver up trust money must be reported promptly to the Secretary in writing.<sup>23</sup>
- e. With some limited exceptions<sup>24</sup>, members must instruct the bank to remit the interest earned on trust accounts to the Nunavut Law Foundation.<sup>25</sup>
- f. The specific method or form of all money received in relation to your practice must be recorded (e.g., cheque, cash).<sup>26</sup>
- g. Cash transactions are subject to additional requirements:
  - i. duplicate receipts must be maintained (with signatures from both the member and the person from whom cash is received);<sup>27</sup> and
  - ii. subject to certain limited exceptions<sup>28</sup>, members shall not receive cash in an aggregate amount greater than \$7,500 in respect of any one client matter.<sup>29</sup>

<sup>16</sup> Rule 80.5.

<sup>17</sup> Rule 80.2(2).

<sup>18</sup> Rule 80.2(1).

<sup>19</sup> [lawsociety.nu.ca/sites/default/files/public/Society Rules/Guidance-Legal-Profession-REV-Feb-2019.pdf](https://lawsociety.nu.ca/sites/default/files/public/Society%20Rules/Guidance-Legal-Profession-REV-Feb-2019.pdf).

<sup>20</sup> Act, s. 43.

<sup>21</sup> Federation of Law Societies of Canada, [Model Trust Accounting Rule](#), which has been adopted as an amendment to the Rules [[lawsociety.nu.ca/sites/default/files/public/Society Rules/Trust-Fund-Final.pdf](https://lawsociety.nu.ca/sites/default/files/public/Society%20Rules/Trust-Fund-Final.pdf)].

<sup>22</sup> Rule 85.

<sup>23</sup> Rules 81.8 and 81.9.

<sup>24</sup> See Act, s. 57(4).

<sup>25</sup> Act, s. 57(2).

<sup>26</sup> Rule 81.61(1).

<sup>27</sup> Rule 81.61(2).

<sup>28</sup> One key exception is where cash is received for payment of professional fees and disbursements in connection with the provision of legal services by the member: Rule 80.1(4).

<sup>29</sup> Rule 80.1(1). See also 1.3 Client Identification and Verification, above.

- h. Records must be kept chronologically and in easily traceable form.<sup>30</sup>
- i. Transactions must be recorded promptly:
  - i. for trust, not more than 7 days after the transaction; and
  - ii. for general, not more than 30 days after the transaction.<sup>31</sup>
- j. Detailed trust reconciliations must be done at least monthly, with the supporting records being maintained.<sup>32</sup>
- k. General accounts must also be reconciled at least monthly.<sup>33</sup>
- l. Records must generally be maintained for the current and previous 6 years.<sup>34</sup>
- m. All members maintaining a trust account in Nunavut must file an annual certificate attesting to compliance and signed by the member and an accountant retained by the member.<sup>35</sup>

See the Act, Part VI "Accounts, Audits and Financial Inspections" and the Rules, Part V "Accounts" for detailed accounting requirements, which may require the assistance of an accountant or bookkeeper to interpret and apply to your practice.



<sup>30</sup> Rule 81.1(2).

<sup>31</sup> Rule 81.4.

<sup>32</sup> Rules 81.5(1) and 81.7(1).

<sup>33</sup> Rule 81.5(2).

<sup>34</sup> Rule 81.6.

<sup>35</sup> Act, s. 48; Rule 92.1.



### 1.5 CONTINUING LEGAL EDUCATION (CLE)

Unless exempted, all practising members must complete 12 hours of eligible continuing legal education (CLE) annually, which must include:

- a. one hour devoted to professional responsibility and ethics; and
- b. one hour devoted to cultural competency.<sup>36</sup>

Members report their hours of eligible CLE as part of the annual membership renewal process through their online CLE Report, which can be updated at any time throughout the year. See the [Law Society's CLE webpage](#) for more information on how to access your Report.<sup>37</sup>

Members who are exempted from complying with CLE requirements must identify their exemptions in their online CLE Report. See the [CLE Policy](#) for the exemptions recognized by the Executive.<sup>38</sup>

- c. CLE must consist of recognized activities, all of which are subject to maximum eligible CLE hours. Further information on the following CLE activities is available [here](#).<sup>39</sup>

ELIGIBLE CLE ACTIVITIES	FOR EACH HOUR OF CLE ACTIVITY, A MEMBER CLAIMS	MAXIMUM ELIGIBLE CLE HOURS
Live Programs/Courses	1 CLE hour	9 CLE hours
Group Study	1 CLE hour	6 CLE hours
Cultural Competency	1 CLE hour	3 CLE hours
Member Wellness	1 CLE hour	3 CLE hours
Nunavut Official Language Training	1 CLE hour	3 CLE hours
Pro Bono (LSN Access to Justice Program)	1 CLE hour	3 CLE hours
On-Demand Programs/Courses	1 CLE hour	6 CLE hours
Self Study	1 CLE hour	2 CLE hours
Invited Speaker for a Law-Related Event	2 CLE hours*	4 CLE hours
Moot Court (Coaching or Judging)	2 CLE hours*	4 CLE hours
Teaching a Course (on a volunteer or part-time basis, not as part of full time or regular employment)	2 CLE hours*	4 CLE hours

\*These activities were given a 1:2 ratio to reflect the preparation time. 1 hour (60 minutes) equals 2 CLE hours.

<sup>36</sup> Rule 53.1

<sup>37</sup> [lawsociety.nu.ca/en/continuing-legal-education-cle](https://lawsociety.nu.ca/en/continuing-legal-education-cle).

<sup>38</sup> [lawsociety.nu.ca/sites/default/files/CLE/LSN Mandatory CLE Policy\\_Final Nov 29 2021 EN.pdf](https://lawsociety.nu.ca/sites/default/files/CLE/LSN Mandatory CLE Policy_Final Nov 29 2021 EN.pdf).

<sup>39</sup> [lawsociety.nu.ca/en/eligible-cle-activities](https://lawsociety.nu.ca/en/eligible-cle-activities).

## 1.6 DUTY TO REPORT TO THE LAW SOCIETY

The Act, Rules and Code impose certain reporting requirements.

### 1.6.1 CHANGE OF ADDRESS

A member must notify the Secretary of any change in their office or mailing address.<sup>40</sup>

### 1.6.2 TRUST SHORTAGES

Where there is a shortage in a client's trust fund that is not rectified within five days after the shortage has come to the member's attention, the member must promptly report the shortage and the circumstances surrounding it to the Secretary in writing.<sup>41</sup>

A member who discovers that they are or will be unable to deliver up when due any trust money held by the member must promptly report that fact and the reasons for it to the Secretary in writing.<sup>42</sup>

### 1.6.3 POTENTIAL CLAIMS

A member must promptly notify the Secretary and the insurer under the group contract of any situation that might result in a claim being made.<sup>43</sup>

See the Law Society's [Insurance Coverage](#) page for more information about how to handle potential claims.<sup>44</sup>

### 1.6.4 UNSATISFIED JUDGMENTS

A member against whom a monetary judgment is entered and who does not satisfy the judgment within 30 days after the date of entry must promptly notify the Secretary in writing of the circumstances of the judgment and the member's proposal for satisfying it, whether or not the judgment is being appealed.<sup>45</sup>

### 1.6.5 INSOLVENCY AND BANKRUPTCY

A member who has become insolvent must promptly notify the Secretary in writing of that fact and provide certain documentation and information in relation to the insolvency.<sup>46</sup>

See Rule 98 for the definition of 'insolvent member' and complete details on reporting requirements and other aspects of insolvency.

### 1.6.6 CRIMINAL OR QUASI-CRIMINAL CHARGES

A member must promptly notify the Secretary in writing of the laying of a charge against the member under the *Criminal Code*, the *Narcotic Control Act*, the *Food and Drugs Act*, the *Income Tax Act* (Canada) and the income tax legislation of any province or territory, the *Securities Act* and the securities legislation of a province or territory, as well as the disposition of any such charge.<sup>47</sup>

### 1.6.7 CESSATION OF PRACTICE AND CHANGE OF STATUS

A notice (Form R.1) needs to be submitted at least 14 days prior of an anticipated resignation/change of status by a member who wishes to:

- cease their practice in Nunavut and resign from the Law Society of Nunavut;
- change their practice status to inactive; or
- cease their private practice in Nunavut.<sup>48</sup>

Form R.1 doesn't however apply to a member who changes employer while remaining an active member. (Exception: cessation of private practice).

When receiving a completed Form R.1, the Executive may:

- approve the intended disposition described in the notice;
- provide direction to the member with respect to the intended disposition described in the notice; or
- require the member to submit an official statement confirming the disposition described in the notice

When a member fails to submit Form R.1, the Secretary sends a notice of failure to comply requiring the member to comply within 30 days. If the member fails to comply after the 30-day deadline, the member's licence is suspended.

Where the circumstances warrant, the matter will be referred to the Chair of the Discipline Committee.

<sup>40</sup> Rule 99.

<sup>41</sup> Rule 81.8.

<sup>42</sup> Rule 81.9.

<sup>43</sup> Rule 96.

<sup>44</sup> [lawsociety.nu.ca/en/insurance-coverage](http://lawsociety.nu.ca/en/insurance-coverage).

<sup>45</sup> Rule 98(3).

<sup>46</sup> Rule 98(4).

<sup>47</sup> Rule 98(2).

<sup>48</sup> Rule 58.

### 1.6.8 DUTY TO REPORT OTHERS

Unless to do so would be unlawful or would involve a breach of solicitor-client privilege, members must report the following to the Law Society:

- a. the misappropriation or misapplication of trust moneys;
- b. the abandonment of a law practice;
- c. participation in criminal activity related to a lawyer's practice;
- d. conduct that raises a substantial question as to another lawyer's honesty, trustworthiness, or competency as a lawyer;

- e. conduct that raises a substantial question about the lawyer's capacity to provide professional services; and
- f. any situation in which a lawyer's clients are likely to be materially prejudiced.<sup>49</sup>

See rules 7.1-2 and 7.1-3 of the Code for further information on reporting.

### 1.7 DUTY TO RESPOND TO THE LAW SOCIETY

A member must reply promptly and completely to any communication from the Law Society.<sup>50</sup>

A member who is the subject of an investigation must answer any questions or provide any records that are considered relevant to the investigation.<sup>51</sup>



<sup>49</sup> Code, 7.1-3.

<sup>50</sup> Code, 7.1-1.

<sup>51</sup> Act, s. 24(2).



## 2. PRACTICE MANAGEMENT

A competent lawyer must have the skills necessary to manage their practice effectively.<sup>52</sup>

The following practice management information is a general starting point, particularly for those members newly embarking upon their legal careers. This is designed to be informational only and is not intended to set any new standards of practice.

For more specific practice management information, the Law Society of Nunavut has arranged for its members to have access to the Practice Advisors of the Law Society of Alberta. This is a confidential service free to members. The Practice Advisors can provide assistance and resources in relation to technology and systems, marketing and strategic planning, focusing on the particular needs of sole practitioners and lawyers practising in smaller settings. The Practice Advisors are also available to discuss other ethical and practice concerns, as well as personal matters such as stress and addiction.

See the Law Society of Alberta [Practice Advisors webpage](#) for additional information and instructions for contacting the Practice Advisors.<sup>53</sup>

<sup>52</sup> Code, 3.1-1.

<sup>53</sup> [lawsociety.ab.ca/lawyers-and-students/practice-advisors/](https://lawsociety.ab.ca/lawyers-and-students/practice-advisors/).

## 2.1 CONFIDENTIALITY

Members owe to clients strict duties of confidentiality.

Members should implement all necessary procedures to protect client confidentiality, including the provision of specific training to staff and student members. Members should also consider having staff, students and third party service providers sign Confidentiality Agreements.

Some members in private practice may practise in association with other lawyers in cost-sharing, space-sharing, or other arrangements. Members in these circumstances should be mindful of the risk of advertent or inadvertent disclosure of confidential information, even if the lawyers institute systems and procedures that are designed to insulate their respective practices.

See the Code, Section 3.3 for further guidance on confidentiality.

## 2.2 CLIENT AND FILE LISTS

A comprehensive client/matter listing of all current and closed files serves several important purposes.

### 2.2.1 CONFLICT CHECKING

The lawyer-client relationship is a fiduciary relationship based on trust. As such, the lawyer has a duty of loyalty to the client and a corresponding ethical duty to avoid conflicts of interest.

The Code defines a conflict of interest as "the existence of a substantial risk that a lawyer's loyalty to or representation of a client would be materially and adversely affected by the lawyer's own interest or the lawyer's duties to another client, a former client, or a third person".<sup>54</sup>

It is therefore essential that members have adequate systems and procedures to enable conflict checking. These systems should keep track of all current and former clients, as well as adverse parties/third parties in readily searchable/retrievable format. These procedures should ensure that a conflict check is performed before any new client/matter is accepted.

Members who are employed by the Legal Services Board will not be in a conflict of interest by reason only of advising or representing a person in a dispute or case

involving another person who is or has been advised or represented by another Legal Services Board employee.

Members in private practice who practice in association with other lawyers in cost-sharing, space-sharing or other arrangements should exercise particular caution before representing a client on the other side of a dispute with the client of another lawyer in the association.

See the Code, Section 3.4 "Conflicts" for further guidance on conflicts of interest.

### 2.2.2 FILE REVIEWS

It is a good practice to regularly review the status of client files and make a note of any necessary steps that need to be taken. Maintaining a current list of open files can help with this.

It can also be helpful to implement general periodic reviews of all files, which can assist in capturing anything that may have been missed on regular file reviews.

## 2.3 RETAINER (ENGAGEMENT) LETTERS

Reducing to writing the agreement reached with the client about the scope (work to be performed) and terms of the engagement (including payment) can help to avoid confusion later on. Many lawyers therefore use standard retainer (engagement) letters, which they require clients to sign and return to confirm their agreement.

Such standard retainer letters sometimes also include a section for the client to complete with the necessary information to satisfy the client identification requirements.<sup>55</sup>

In the case of a limited scope retainer, the Code specifically requires the member to confirm in writing to the client what services will be provided.<sup>56</sup>

<sup>54</sup> Code, 1.1-1.

<sup>55</sup> Rule 80.3. See also 1.3.1 Identification, above.

<sup>56</sup> See Code, 3.2-1A and commentary.

## 2.4 DIARIZING (CALENDARING)

A comprehensive and consistent method of diarizing (calendarizing) key dates and reminders is essential in any law practice. This system can include:

- a. limitation periods (and appropriate reminders leading up to the ultimate date)
- b. court deadlines
- c. other file-related deadlines (filing due dates, closing dates, etc.)
- d. court appearances
- e. undertakings
- f. regular review/bring forward dates
- g. holidays and time off
- h. other non-client related deadlines (e.g., GST filing, Law Society annual renewals, etc.)

## 2.5 CHECKLISTS, WORKFLOWS, TEMPLATES, AND PRECEDENTS

Having standard procedures where appropriate is an important part of good practice management. It can save time, assist with proper delegation, and help ensure the smooth and timely progress of files.

Members should therefore consider implementing both administrative and substantive standard procedures in their practices.

Administrative procedures could include for example standard file opening and closing checklists. Substantive procedures could include standard workflows tailored to the member's areas of practice.

Practice-specific templates and precedents for both administrative and substantive procedures can also be a helpful starting point. For example:

- a. a file opening checklist could be associated with one or more template retainer letters and/or a dedicated client identification form
- b. a file opening checklist in an estates practice might also include a detailed questionnaire for the client to complete regarding their wishes, and particulars of all assets and liabilities

- c. templates and precedents for an estates practice might include, *inter alia*, wills and powers of attorney
- d. templates and precedents for a criminal matter might include, *inter alia*, an initial disclosure request, a plea comprehension agreement, and applications

Members who use standard procedures should ensure that they are regularly reviewed and updated as necessary to reflect any changes in the law or regulatory requirements.

## 2.6 CLIENT COMMUNICATION

Members must provide courteous, thorough and prompt service to clients.<sup>57</sup> Good client communication, including returning messages in a timely way and keeping clients updated on the status of their files, is a key part of the lawyer-client relationship. Members may therefore wish to consider developing internal client communication service standards and goals. Members should familiarize themselves with the Code, Section 3.2 "Quality of Service" in its entirety.

Members should be aware that some client communications are required to be documented in writing:

- a. where appropriate, all client instructions must be in writing or confirmed in writing;<sup>58</sup>
- b. cash receipts must be maintained in duplicate with signatures from both the member and the client from whom cash is received;<sup>59</sup>
- c. client identification requirements must be recorded and dated;<sup>60</sup>
- d. client verification requirements, if applicable, must be recorded and dated.<sup>61</sup>

Members should also consider the following best practices with respect to documentation of client communications:

- a. maintaining a dated documentary record of all client contact, including voicemail messages, telephone calls and meetings;
- b. formalizing any verbal advice or opinion in writing, particularly when:

<sup>57</sup> Code, 3.2.

<sup>58</sup> Code, 3.2-1, Commentary 5(f).

<sup>59</sup> Act, s. 81.61(2).

<sup>60</sup> Rule 80.3; see 1.3.1 Identification, above.

<sup>61</sup> Rule 80.6; see 1.3.2 Verification, above.

- i. the matter is complex;
  - ii. the client's position is precarious;
  - iii. an unexpected development occurs;
  - iv. the client's expectations are unrealistic;
  - v. the member is providing an explanation of the terms and implications of settlement or resolution offers;
  - vi. the client is required to take some action or step themselves;
- c. sending clients copies of pleadings and important correspondence;
  - d. sending clients a final closing letter or other written communication when the retainer ends.

## 2.7 OTHER DOCUMENTATION

Undertakings and trust conditions should be carefully documented to ensure that they are properly and completely fulfilled.

It is also important to document consultations that do not lead to the member being retained. Many lawyers make it a practice to confirm the non-retainer (non-engagement) with the individual in writing as well. If confidential information is received in the course of such a consultation, appropriate conflict information should also be obtained and maintained, even if the member is ultimately not formally retained.

## 2.8 CLIENT PROPERTY

Any original wills or other important client documents should be kept safely and securely, e.g., in a locked and fireproof cabinet or safe.

A valuable property record should be maintained identifying all non-monetary property being held by the member. This should also be recorded in the appropriate client file so that consideration can be given to returning such property to the client at the time of file closure.

## 2.9 BILLING

Members may wish to establish and regularly review a fee schedule for their services, setting out

matters such as hourly rates, block fees and financial retainer amounts.

Additional policies to consider include:

- a. timely docketing (keeping a record of time spent on client matters);
- b. billing practices (timing of account issuance, retainer replenishment);
- c. payment and collection practices.

## 2.10 BOOKKEEPING

The bookkeeping requirements that members must meet are laid out in general terms in the Act and expanded upon in significant detail in the Rules.

Members should carefully consider whether they require the assistance of a bookkeeper and/or accountant to ensure full compliance.

## 2.11 FILE CLOSURE, RETENTION, DESTRUCTION

Formal closure of client files is an important part of good practice management. It also provides an additional opportunity to ensure that all final steps have been taken in the matter and any original documents or property have been returned to the client.

See the Law Society's Notice to the Profession on [File Storage, Retention, and Destruction](#).<sup>62</sup>

## 2.12 PRACTICE ABSENCES, INTERRUPTION, AND SUCCESSION PLANNING

Members should engage in contingency planning by having appropriate plans in place for interruptions in their practice. These interruptions may be planned (e.g., retirement, extended holiday) or unplanned (e.g., natural disasters, disability, incapacity, death). This is important so that clients are not prejudiced, as well as to protect the financial interests of the member or their estate as well.

See the Law Society of Alberta's helpful guidance on contingency planning: [When Bad Things Happen to Good Lawyers: A Contingency Planning Guide](#).<sup>63</sup>

See also the Law Society of the Northwest Territories' [policy on disaster recovery and succession planning](#) (which are mandatory in that jurisdiction).<sup>64</sup>

<sup>62</sup> [lawsociety.nu.ca/sites/default/files/News/Public Notices/LSN Notice \(Practice\) File Retention and Destruction Oct 2021.pdf](https://lawsociety.nu.ca/sites/default/files/News/Public%20Notices/LSN%20Notice%20(Practice)%20File%20Retention%20and%20Destruction%20Oct%202021.pdf)

<sup>63</sup> [dvbat5idhx7ib.cloudfront.net/wp-content/uploads/2017/01/22203930/When-Bad-Things-Happen-to-Good-Lawyers.pdf](https://dvvbat5idhx7ib.cloudfront.net/wp-content/uploads/2017/01/22203930/When-Bad-Things-Happen-to-Good-Lawyers.pdf).

<sup>64</sup> [lawsociety.nt.ca/sites/default/files/Succession and Disaster Relief Policy.pdf](https://lawsociety.nt.ca/sites/default/files/Succession%20and%20Disaster%20Relief%20Policy.pdf).

### 3. INFORMATION TECHNOLOGY (IT)

Information technology has increasingly become integral to running an efficient legal practice. Under the Code, the quality of service that is required of members specifically includes service that is efficient. This requires maintaining equipment adequate to the member's practice.<sup>65</sup>

To assist members who are interested in exploring some of the available options, the Law Society is providing the following for informational purposes. It is not an exhaustive list. The available technology is also rapidly changing, so this information may not always be current. The Law Society does not endorse nor recommend any specific software or system.

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<sup>65</sup> See Code, 3.2-1 and commentary.



### 3.1 PRACTICE MANAGEMENT AND ACCOUNTING

Several legal practice management systems are currently available, including:

- **Clio:** [clio.com](https://www.clio.com)
- **Cosmolex:** [cosmolex.ca](https://www.cosmolex.ca)
- **Ghost Practice:** [ghostpractice.ca](https://www.ghostpractice.ca)
- **PCLaw:** [pclawtimematters.ca](https://www.pclawtimematters.ca)

Before investing in a new practice management system, some of the factors members may wish to consider include:

- a. whether the practice management system has integrated accounting software OR does the data from the system need to be imported into accounting software such as Quickbooks
- b. whether the practice management system is cloud-based and can be accessed anywhere through an internet connection OR is a native application that can only be accessed on a local computer or server
- c. security and backup
- d. ease of use (most will offer a free trial so that you can gauge this yourself)
- e. whether training and support is included
- f. integration with existing IT systems (email, document management, storage)
- g. the process for importing existing data from an old practice management system
- h. cost

### 3.2 DOCUMENT CREATION AND MANAGEMENT

There are various options available for electronic document creation, including Word, Google Docs and Adobe Acrobat. Electronic documents can be organized and stored locally (e.g., on your computer's hard drive or on a server) or in the cloud. For sole practitioners and small legal offices who require documents to be accessible remotely or on more than one computer, secure cloud-based storage can provide a cost-effective alternative to operating and maintaining a server.

Some of the large service providers offer all-inclusive cloud-based subscription services for business email, document creation and storage (e.g., Microsoft's Office 365 or Google's G Suite).

### 3.3 LEGAL RESEARCH

#### 3.3.1 CANLII

[CanLII](https://www.canlii.org/)<sup>66</sup>, the Canadian Legal Information Institute, was founded and is paid for by the lawyers and notaries who are members of Canada's provincial and territorial law societies, which comprise the Federation of Law Societies of Canada. CanLII provides a variety of Canadian decisions (court and tribunal), legislation and commentary online for free.

Nunavut-specific content can be found [here](#).<sup>67</sup> Click for basic guidance on [navigation](#)<sup>68</sup> and [searching](#).<sup>69</sup>

#### 3.3.2 NUNAVUT COURT OF JUSTICE LAW LIBRARY

The [Nunavut Court of Justice Law Library](#)<sup>70</sup> is located on the first floor of the Nunavut Justice Centre, Building 510, Iqaluit. The library's catalogue is available [online](#).<sup>71</sup>

Onsite access to Quicklaw, Westlaw and Martin's Criminal Code database is available to members free of charge. The Manager, Court Library Services, can arrange for access and also provide mini-training sessions for these databases upon request.

The Manager, Court Library Services, can also provide other research and reference assistance during operating hours in person, by phone at (867) 975-6134, or by email at [courtlibrary@gov.nu](mailto:courtlibrary@gov.nu).

#### 3.3.3 LAW SOCIETY OF ONTARIO GREAT LIBRARY

The Law Society of Ontario operates the [Great Library](#), which provides free public online access to a variety of full text articles and CPD materials.<sup>72</sup>

#### 3.3.4 WESTLAW, QUICKLAW, AND HEINONLINE

Westlaw, Quicklaw and HeinOnline are the most commonly used commercial subscription services in Canada. They are internet-based, so can be accessed from anywhere. The nature of the included content (caselaw, secondary sources, etc.) as well as the cost will usually depend on the specific subscription model purchased.

<sup>66</sup> [canlii.org/](https://www.canlii.org/).

<sup>67</sup> [canlii.org/en/nu/](https://www.canlii.org/en/nu/).

<sup>68</sup> [canlii.org/en/info/faq.html#nav\\_search](https://www.canlii.org/en/info/faq.html#nav_search).

<sup>69</sup> [canlii.org/en/info/search.html](https://www.canlii.org/en/info/search.html)

<sup>70</sup> [nunavutcourts.ca/index.php/library](https://nunavutcourts.ca/index.php/library).

<sup>71</sup> [17156.rmwebopac.com/?dbNum=1&action=3&Type=B](https://17156.rmwebopac.com/?dbNum=1&action=3&Type=B).

<sup>72</sup> [iso.ca/great-library](https://iso.ca/great-library).

### 3.4 SECURITY

The Law Society's [Guidelines for Practicing Ethically with New Information Technologies](#) (a supplement to the Code) provide important information and expectations with respect to security, including the use of strong passwords, encryption, virus protection, firewalls and backups.<sup>73</sup>

### 3.5 MINIMUM STANDARDS FOR CLIA CYBER INSURANCE COVERAGE

All members in active practice who are insured under the CLIA policy have additional cyber incident coverage, provided the following minimum IT standards are met:

- a. weekly backups of data, stored offsite, and tested at least annually;
- b. installation of critical patches, anti-virus software, and anti-spyware must be made within two weeks of release; and
- c. installation and maintenance, and active monitoring within reasonable business practices, of firewalls and endpoint protection.<sup>74</sup>

Cloud-based systems which have backup as a service would satisfy the CLIA back up requirement, provided that those backups are still tested at least annually.

Outside of the insurance requirements, CLIA also recommends as good business practice that organizations attempt to restore their operational data from backups as a test of disaster preparedness. This will allow members to know how long it takes and whether anything is missing from the backups. For example, members could run a test of their practice management software to see how quickly they can go from a blank slate to being up and running by using the backups alone.

For further information about the policy and the urgent crisis management available 24/7 in relation to cyber incidents, see the [CLIA cyber insurance information sheet](#).<sup>75</sup>

<sup>73</sup> [lawsociety.nu.ca/sites/default/files/website-general/cba\\_supplemental.pdf](https://lawsociety.nu.ca/sites/default/files/website-general/cba_supplemental.pdf).

<sup>74</sup> CLIA cyber insurance information sheet:

<sup>75</sup> [lawsociety.nu.ca/sites/default/files/News/Public Notices/CLIA Cyber Insurance Summary \(2020\).pdf](https://lawsociety.nu.ca/sites/default/files/News/Public Notices/CLIA Cyber Insurance Summary (2020).pdf).



## 4. WELLNESS

Studies have shown that lawyers in North America have the highest rate of mental illness of any profession and among the highest rates of depression and substance abuse. If you find yourself struggling, you are not alone.

Practising law in Nunavut can also pose additional wellness challenges, including extensive travel and frequent exposure to vicarious trauma. Additionally, many young lawyers are new to the territory and away from the usual supports they would turn to in times of stress.

Awareness of these challenges and destigmatizing them are key in prioritizing wellness. This is crucial for the benefit of members themselves and also for their clients.

There are some helpful free wellness resources for lawyers available online, which highlight not only the wellness challenges we can all face in the practice of law, but also identify some practical coping strategies. These include:

[Canadian Bar Association – Well-Being Resources](#)<sup>76</sup>

[Alberta Lawyers' Assistance Society](#)<sup>77</sup>

[American Bar Association – Mental Health Resources](#)<sup>78</sup>

<sup>76</sup> [cba.org/Sections/Wellness-Subcommittee/Resources](https://www.cba.org/Sections/Wellness-Subcommittee/Resources).

<sup>77</sup> [lawyersassist.ca/](https://www.lawyersassist.ca/).

<sup>78</sup> [americanbar.org/groups/lawyer\\_assistance/resources/covid-19--mental-health-resources/](https://www.americanbar.org/groups/lawyer_assistance/resources/covid-19--mental-health-resources/).

#### 4.1 RECOGNIZING POTENTIAL SIGNS AND ISSUES

Members should familiarize themselves with some of the potential wellness red flags, both in themselves and in their colleagues:

- a. feeling physically exhausted and/or emotionally drained
- b. sleep issues
- c. changes in appetite or diet
- d. focus/concentration difficulties
- e. frequent procrastination or work avoidance, including:
  - i. regularly failing to return phone calls or emails
  - ii. leaving files to linger over long periods of time
  - iii. "freezing" and being unable or unwilling to complete small and simple tasks
  - iv. delaying and/or missing deadlines
- f. regular and unexplained lateness or absences
- g. changes in personality or mood, including:
  - i. overreacting
  - ii. anxiety
  - iii. feelings of sadness, tearfulness or worthlessness
  - iv. withdrawing from normal activities or relationships
  - v. increased personal conflicts
- h. substance misuse or abuse

The above list is not exhaustive, nor is it intended to be used as a diagnostic tool.

#### 4.2 NULAP

The Nunavut Lawyer Assistance Program (NuLAP) provides confidential counselling and other support to Nunavut-resident lawyers, articling students, law students and their families through the [Alberta Lawyers' Assistance Society](#).<sup>79</sup>

NuLAP provides two hours of free professional counselling and can also connect lawyers with other resources, including peer support and mentorship.

**ET HELP NOW – 24/7 Crisis Counselling:**

1 (877) 498-6898

**Peer Support Program: 1 (877) 737-5508**

#### 4.3 VICARIOUS TRAUMA (COMPASSION FATIGUE)

Lawyers who have been exposed to violent or otherwise disturbing cases can themselves suffer psychological harm in the form of secondary/vicarious trauma (aka compassion fatigue). Vicarious trauma is a form of post-traumatic stress disorder. While it can occur after a single disturbing case, it can also arise as a result of repeated exposure to difficult material over the course of a lawyer's career.

It is important for lawyers to be aware of the impact vicarious trauma can have on their wellbeing, particularly if they practice in the area of criminal and/or family law or in other areas where graphic visual evidence may arise. Lawyers who have themselves experienced direct trauma in the past may also be particularly vulnerable when it comes to vicarious trauma.

Support for lawyers experiencing vicarious trauma is available through NuLAP (above).

Members interested in learning more about vicarious trauma and the related topic of trauma-informed practice may wish to explore Myrna McCallum's podcast, [The Trauma Informed Lawyer](#).<sup>80</sup> Ms. McCallum is a former prosecutor and Indian Residential School adjudicator who serves as a subject matter expert, consultant and trainer/coach on trauma-informed lawyering.

<sup>79</sup> [lawyersassist.ca/](http://lawyersassist.ca/).

<sup>80</sup> [thetraumaformedlawyer.simplecast.com/](http://thetraumaformedlawyer.simplecast.com/).

## 4.4 MANAGING WELLNESS

### 4.4.1 BLOCKING OFF TIME

If possible, be proactive with your calendar and consider blocking off additional preparation time around significant events or deadlines. Consider whether blocking off recovery time afterwards would also be helpful, so that you have time to catch up before the next significant event or deadline.

Also consider blocking off time for vacations and personal matters well in advance, e.g., at the beginning of every year. While you may not have plans yet, it will ensure that your calendar is not filled with work commitments when you are actually ready to book your holiday or attend to your personal matter.

### 4.4.2 TIME MANAGEMENT AND FOCUS

Making yourself available to everyone at all times will impact your ability to focus on tasks that require uninterrupted thought and concentration. Digital distractions can be particularly challenging to deal with.

Time management strategies such as daily task lists and scheduling regular focus blocks in your calendar to work on specific tasks to the exclusion of all others may be helpful. Turning off all non-essential notifications on your digital devices (and physically distancing yourself from your phone), as well as using out-of-office messages or automatic replies to temper instant responsiveness expectations are other strategies to consider.

### 4.4.3 HEALTHY HABITS

Daily physical activity, good sleep hygiene, proper nutrition and hydration, and minimizing substance use are all important wellness habits that can help build resilience. Many lawyers have also found mindfulness practices (including meditation) to be helpful.

### 4.4.4 SUPPORT

Having one or more trusted and supportive colleagues who can appreciate the particular issues associated with the practice of law can be very helpful. At the same time, some lawyers also find it helpful to also cultivate interests and support completely outside of law as well.



## 5. PRO BONO LEGAL SERVICES

The goal of Law Society's Access to Justice Program is to build the legal capability of Nunavummiut to manage everyday legal issues. An important step towards improving access to justice in the territory is extending indemnification coverage to members providing pro bono services through the Program.

Members who are normally exempted from professional liability insurance requirements (such as government employees)<sup>81</sup> are now also entitled to indemnification for approved pro bono legal services rendered through the Access to Justice Program.

See the Law Society's [Access to Justice Program](#) page for the current list of approved pro bono access to justice projects.<sup>82</sup>

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<sup>81</sup> See Rule 93; see also 1.2 Professional Liability Insurance, above.

<sup>82</sup> [www.lawsociety.nu.ca/en/access-justice-program](http://www.lawsociety.nu.ca/en/access-justice-program).



## 6. New Private Practice Basic Checklist

LOCATION	
Lease or Rental Agreement	✓
Business Licence	
Comprehensive/Commercial Liability Insurance for claims unrelated to professional services	
Business Interruption Insurance (optional)	
Conflicts & confidentiality awareness if sharing space	

FURNITURE	
(as required)	

EQUIPMENT	
Phone, Fax	
Printer, Scanner	
Document Binding	
Shredding	
Fireproof Safe	
Legal Textbooks	

SOFTWARE/IT	
Computer	
Internet	
Email	
Word Processing, Document Management	
Practice Management, Accounting	
Specialized (Real Estate, Wills)	
Online Legal Research, Resources	
Backups	

SUPPLIES	
General Office Supplies	
Legal Document Supplies (Binding, Covers, Seals, etc.)	

BUDGET	
Anticipated Expenses	
Anticipated Revenue	
Billing and Retainer Policy	



<b>BANKING</b>	
General Account	
Trust Account	
Line of Credit	
Credit Card Processing	

<b>CANADA REVENUE AGENCY</b>	
Business Number	
GST Number	
GST Installments	
Payroll Deductions/Withholding Taxes	
Tax Installments	

<b>EMPLOYEES</b>	
Employment Contracts	
Payroll	
Confidentiality Agreements and Trainings	
T4 Distribution	

<b>THIRD-PARTY SERVICES</b>	
Accountant	
Bookkeeper	

<b>BRANDING</b>	
Firm Logo	
Letterhead	
Business Cards	
Signage	

<b>NOTIFICATIONS AND MARKETING</b>	
LSN	
CLIA	
Website and Social Media	





