

Contents of Service of a Demand .....	107
Duty to Preserve Confidentiality.....	107
N. Bankruptcy of a Member .....	107
Duty to Report Bankruptcy to the Society .....	107
Practice Conditions .....	108
Notification to the Membership .....	108
O. Client Identification and Verification Requirements .....	108
Requirement to Identify Client.....	108
Information Required to be Recorded .....	109
When Verification of Client Identity is Required.....	109
Exemptions Regarding Certain Funds.....	109
Requirement to Verify Client Identity .....	110
Use of an Agent .....	110
Agreement for Use of Agent .....	110
Documents and Information for Verification.....	110
Requirement to Identify Directors, Shareholders and Owners .....	111
Timing of Verification for Individuals .....	112
Timing of Verification for Organizations.....	112
Recordkeeping and Retention .....	113
Application.....	113
Criminal Activity, Duty to Withdraw at Time of Taking Information.....	113
Monitoring .....	113
Criminal Activity, Duty to Withdraw .....	113
P. Withdrawal from Practice.....	114
Duties of Firms and Members.....	114
PART 16.....	115
Reporting Requirements .....	115
Definitions .....	115
Filing of Report on Commencement of Practice .....	115
Change in Fiscal Period.....	115
Filing of Annual Reports.....	115
Exemption from Filing Accountant's Report.....	115
Late Filing of Reports .....	116
Credentials to Complete Accountant's Report.....	116
Instruction Respecting Minimum Standards .....	116
Monthly Reports .....	116
Late Filing of Monthly Reports .....	117

Appeal of Late Filing Assessment .....	117
Disqualified from the Practice of Law .....	117
PART 17 .....	118
Unclaimed Trust Funds .....	118
Definitions .....	118
Payment of Unclaimed Trust Funds to the Society .....	118
Procedure to Claim Unclaimed Trust Funds .....	119
Procedure for Adjudication of Claims .....	119
PART 18 .....	120
Forms of Practice .....	120
A. Professional Corporations .....	120
Registrar .....	120
Approval for Incorporation .....	120
Application for Permit .....	120
Renewal of Permit .....	121
Revocation of Permit .....	121
Changes in the Corporate Structure .....	121
Corporate Register .....	121
Review of the Executive Director's Decision .....	121
Professional Responsibility of Members .....	122
B. Limited Liability Partnerships .....	122
Definitions .....	122
Limited Liability Partnerships .....	122
Executive Director's Initial Review .....	122
Extra-jurisdictional LLP .....	122
Executive Director's Decision .....	122
Register of LLPs .....	123
LLP Notice to Clients .....	123
Reporting of Changes .....	123
Responsibilities of Partners .....	123
C. Sharing Premises with Non-Lawyers .....	123
Sharing Premises .....	123
PART 19 .....	124
Contingent Fee and Retainer Agreements .....	124
Definitions .....	124
Contents of Contingent Fee Agreements .....	124
Prohibited Agreements .....	124

## PART 1

### Definitions and Interpretation

#### Definitions and Interpretation

101(1) In these Rules:

**“Act”** means *The Legal Profession Act, 1990*;

**“Code”** means *The Code of Professional Conduct* adopted by the Benchers in 2012, as amended;

**“disbarment”** means a penalty imposed by a Hearing Committee appointed pursuant to Part 11, which consists of the striking of the member's name from the roll of members and the removal of all rights and privileges in the membership;

**“Executive Committee”** means the Executive Committee established in subrule 601(1)(a);

**“Executive Director”** means the Executive Director, and unless otherwise specified, the Deputy Director;

**“firm”** means firm pursuant to clause 2(1)(f.1) of the Act;

**“mail”** means delivery to a member by ordinary mail, prepaid courier, facsimile or electronic mail;

**“meeting of the Benchers”** means a meeting of the Benchers in Convocation;

**“member”** means member pursuant to clause 2(1)(h) of the Act;

**“resignation in the face of discipline”** means a resignation accepted by the Conduct Investigation Committee pursuant to Rule 1111;

**“resignation instead of continued proceedings”** means a resignation accepted by the Conduct Investigation Committee or the Chairperson of the Competency Committee pursuant to Rule 1112;

**“Rule or Subrule”** means:

- (a) Rule or subrule contained in these Rules; and
- (b) the Code published by the Society and as amended from time to time;

**“Schedule 1”** means the Schedule of Fees and Assessments appended to these Rules;

**“simple resignation”** means resignation pursuant to section 27 of the Act.

(2) A member who practises law in Lloydminster, Alberta or Flin Flon, Manitoba shall be deemed, for the purposes of these Rules, to be practising law in Saskatchewan.

(3) A member who is suspended or disqualified under the Act or these Rules is not, while suspended or disqualified, in good standing.

(4) These Rules are to be interpreted according to the interpretation principles in *The Legislation Act*.

[Rule 101(1), definition “member” amended, December 3, 2021]

## **PART 2**

### **Law Society Administration**

#### **Head Office**

**201** The head office of the Society shall be in the City of Regina.

#### **Seal of the Society**

**202(1)** The Society shall have a common seal.

(2) The seal of the Society shall remain in the custody of the Executive Director.

(3) A document to which the seal of the Society has been affixed shall:

- (a) subject to clause (b), be signed by any two of the following:
  - (i) the President;
  - (ii) the Executive Director;
  - (iii) a Benchers described in clauses 6(2)(a) to (c) of the Act who was authorized by the Benchers to sign the document;
  - (iv) a person who was authorized by the President to sign the document; or
- (b) in the case of a certificate or a document which certifies true copies of any document or resolution, be signed by any one of the persons described in clause (a).

(4) A document which is otherwise valid is not rendered invalid by a failure to comply with this Rule.

#### **Officers of the Society**

**203(1)** The Benchers may designate the offices of the Society, appoint as officers persons of full capacity, specify their duties and delegate to them powers to manage the business and affairs of the Society.

(2) A Benchers may be appointed to any office of the Society.

(3) Two or more offices of the Society may be held by the same person.

(4) The President and Executive Director acting together may designate any person to perform any of the duties assigned to an officer in these Rules, unless the context indicates otherwise.

#### **Fiscal Year**

**204** The fiscal year of the Society is the calendar year.

#### **Auditors**

**205(1)** The Benchers shall, in each year, appoint an auditor to audit the accounts of the Society.

(2) The Benchers shall not appoint a Benchers or an employee of the Society as an auditor.

(3) The auditor may access every record of the Society at all times.

(4) The auditor is entitled to require information and explanation considered necessary from the Benchers, officers and employees of the Society to prepare an Audit report.

**“Mobility Defalcation Compensation Agreement”** means the 2010 Mobility Defalcation Compensation Agreement of the Federation of Law Societies of Canada, as amended from time to time;

**“National Mobility Agreement”** means the 2013 National Mobility Agreement of the Federation of Law Societies of Canada, as amended from time to time;

**“National Registry”** means the National Registry of Practising Lawyers established pursuant to the National Mobility Agreement;

**“Permit”** means an interjurisdictional practice permit to provide legal services in Saskatchewan on a temporary basis issued pursuant to Rule 805;

**“practice of law”** has the meaning with respect to each jurisdiction that applies in that jurisdiction;

**“Protocol”** means the Interjurisdictional Practice Protocol of the Federation of the Law Societies of Canada signed February 18, 1994 in Jasper, Alberta;

**“provide legal services”** means to engage in the practise of law:

- (a) physically in Saskatchewan, except with respect to the law of another Canadian jurisdiction; or
- (b) with respect to the law of Saskatchewan, physically in any jurisdiction; and

includes the provision of legal services respecting federal jurisdiction in Saskatchewan;

**“Resident”** has the meaning respecting a province or territory that it has with respect to Canada in the *Income Tax Act* (Canada);

**“suitability to practise”** means honesty, governability, financial responsibility and respect for the rule of law and the administration of justice and “suitable to practice” has a corresponding meaning;

**“Territorial Mobility Agreement”** means the 2006 Territorial Mobility Agreement of the Federation of Law Societies of Canada, as amended from time to time;

**“visiting lawyer”** means a lawyer who is entitled to practise law in a Canadian jurisdiction other than Saskatchewan.

## **Application**

**802(1)** These Rules:

- (a) are intended to implement the provisions of the Protocol, the National Mobility Agreement and the Territorial Mobility Agreement; and
- (b) apply to a visiting lawyer, provided that the visiting lawyer is entitled to practise law in the jurisdiction of a governing body of which the visiting lawyer is a member.

(2) Unless it is inconsistent with the provisions of these Rules, the Protocol applies to temporary mobility pursuant to these Rules.

(3) Notwithstanding these Rules, a member of the Canadian Forces who is entitled to practise law in the jurisdiction of a governing body, other than the Chambre, who provides legal services exclusively for or on behalf of the Office of the Judge Advocate General:

- (a) may provide legal services for or on behalf of the Office of the Judge Advocate General without a Permit; and
- (b) does not establish an economic nexus with Saskatchewan pursuant to Rule 808.

### **National Registry of Practising Lawyers**

**803(1)** The Executive Director must provide to the National Registry the current and accurate information about practising lawyers required pursuant to the National Mobility Agreement.

(2) No one may use or disclose information obtained from the National Registry, except for the purposes of the Act and these Rules.

### **A. Temporary Mobility**

#### **Temporary Mobility Without a Permit Pursuant to National Mobility Agreement and Protocol**

**804(1)** A visiting lawyer who qualifies pursuant to subrule (2) may provide legal services without a Permit for a maximum of 100 days in any calendar year.

(2) Subject to subrule (4), to qualify to provide legal services on a temporary basis pursuant to subrule (1) or (3), a visiting lawyer must at all times:

- (a) be entitled to practise law in a Home Jurisdiction other than the Chambre;
- (b) carry liability insurance that:
  - (i) is reasonably comparable in coverage and limits to that required pursuant to Rule 1202; and
  - (ii) extends to the lawyer's temporary practice in Saskatchewan;
- (c) have defalcation compensation coverage from a governing body that extends to the lawyer's practice in Saskatchewan;
- (d) not be subject to conditions of or restrictions on the lawyer's practice or membership in the governing body in any jurisdiction imposed as a result of or in connection with proceedings related to discipline, competency or capacity;
- (e) not be the subject of criminal or disciplinary proceedings in any jurisdiction;
- (f) have no disciplinary record in any jurisdiction; and
- (g) not have or establish an economic nexus with Saskatchewan, as defined in Rule 808.

(3) On application of a visiting lawyer who otherwise qualifies pursuant to subrule (2), the Executive Director may:

- (a) subject to any conditions and restrictions the Executive Director considers appropriate, allow the visiting lawyer to provide legal services without a Permit beyond the time limit set in subrule (1); or
- (b) require the applicant to apply for a Permit pursuant to Rule 805 to provide legal services beyond the time limit set in subrule (1).

(4) The requirement in subrule (2)(b) does not apply to a visiting lawyer who is exempt from compulsory liability insurance pursuant to subrule 1202(3) with respect to legal services to be provided in Saskatchewan.

[Rule 804(4) amended to correct subrule reference, December 3, 2021]

#### **Temporary Mobility Requiring Interjurisdictional Practice Permit**

**805(1)** A visiting lawyer who fails to comply with any of the requirements set out in subrules 804(2)(d) to (g) may apply for a Permit.

(2) A visiting lawyer applying pursuant to subrule (1) shall deliver to the Executive Director:

- (a) a completed Permit application, including a written consent for the release of relevant information to the Executive Director;
- (b) subject to subrule (3), the interjurisdictional practice permit fee or the interjurisdictional practice permit renewal fee, as set out in Schedule 1;
- (c) certificates of standing, dated not more than 30 days before the date of the application and in a form acceptable to the Executive Director and issued by each governing body of which the visiting lawyer is a member;
- (d) proof of professional liability insurance that:
  - (i) is reasonably comparable in coverage and amount to that maintained by the Society in its compulsory program; and
  - (ii) extends to the visiting lawyer's practice in Saskatchewan; and
- (e) proof that the visiting lawyer has defalcation compensation coverage from a governing body that extends to the visiting lawyer's practice in Saskatchewan.

(3) Subrule (2)(b) does not apply to an application made by a visiting lawyer who is a member of a governing body in a jurisdiction in which:

- (a) the visiting lawyer is entitled to practise law; and
- (b) the governing body does not charge members of the Society a fee for permission to practise law in the jurisdiction on an occasional basis.

(4) On application pursuant to this Rule, the Executive Director may issue a Permit, subject to any conditions and restrictions that the Executive Director considers appropriate if, in the discretion of the Executive Director, it is consistent with the public interest to do so.

(5) A Permit issued or renewed pursuant to this Rule:

- (a) subject to subrule (c), is effective until one year from the date it is issued;
- (b) allows a visiting lawyer to provide legal services for not more than 100 days in that year; and
- (c) ceases to be valid if the holder of the Permit:
  - (i) ceases to be entitled to practise law in all Home Jurisdictions;
  - (ii) fails to maintain professional liability insurance as required pursuant to subrule (2)(d);
  - (iii) fails to maintain defalcation compensation coverage as required pursuant to subrule (2)(e); or
  - (iv) is suspended or disbarred in any jurisdiction.

(6) On application, the Executive Director may extend the authorization granted by the Permit mentioned in subrule (4).

### **Responsibilities of Visiting Lawyer**

**806**(1) The Act, these Rules and the Code apply to and bind a visiting lawyer providing legal services.

(2) It is the responsibility of a visiting lawyer providing legal services to:

- (a) record and verify the number of days in which the visiting lawyer provides legal services; and
- (b) prove compliance with these Rules.

### **Trust Funds**

**807** A visiting lawyer must not maintain a trust account in Saskatchewan and must:

- (a) promptly remit funds received in trust to the visiting lawyer's trust account in a Home Jurisdiction; or
- (b) ensure that trust funds received are handled:
  - (i) by a member of the Society entitled to practise law in Saskatchewan in a trust account controlled by that member of the Society; and
  - (ii) in accordance with the Act and these Rules.

### **Disqualification Due to Economic Nexus**

**808(1)** A visiting lawyer who has established an economic nexus with Saskatchewan is not permitted to provide legal services pursuant to these Rules.

(2) For the purposes of this Rule, an economic nexus is established by actions inconsistent with a temporary basis for providing legal services, including but not limited to doing any of the following in Saskatchewan:

- (a) providing legal services beyond 100 days, or longer period allowed pursuant to subrules 804(3)(a) or 805(6);
- (b) opening an office from which legal services are offered or provided to the public;
- (c) becoming Resident;
- (d) opening or operating a trust account, or accepting trust funds, except as permitted pursuant to Rule 807;
- (e) holding oneself out or allowing oneself to be held out as willing or qualified to practise law in Saskatchewan, except as a visiting lawyer.

(3) A visiting lawyer who provides legal services in or from an office affiliated with the lawyer's law firm in a Home Jurisdiction does not, for that reason alone, establish an economic nexus with Saskatchewan.

(4) A visiting lawyer who becomes disqualified pursuant to this Rule must cease providing legal services forthwith, but may apply pursuant to Rule 816 for call and admission or pursuant to Rule 805 for a Permit.

(5) On application by a visiting lawyer, the Executive Director may allow the visiting lawyer to continue to provide legal services pending consideration of an application pursuant to Rules 805 or 815.

### **Federal Jurisdiction**

**809(1)** As an exception to the requirements of Rule 808, a visiting lawyer who is not disqualified pursuant to Rule 811 may appear before any of the following tribunals in Saskatchewan without a Permit:

- (a) the Supreme Court of Canada;
- (b) the Federal Court of Canada;
- (c) the Tax Court of Canada;

- (a) complete the applicable requirement; and
- (b) pay the late delivery fee specified in Schedule 1.

(2) A firm that fails to comply with Rules 902, 904, 905 or 906, and that does not remedy such non-compliance in accordance with subrule (1) may be subject to:

- (a) a compliance fine in the amount specified in Schedule 1 if the firm fails to cooperate within 60 days of a written notice of non-compliance of the Executive Director; and
- (b) a revocation, suspension or conditions on use of the firm's trust account if the firm fails to cooperate within 90 days of a written notice of non-compliance of the Executive Director.

(3) Pursuant to Part 16 of these Rules, a firm that fails to comply with Rule 903, may be subject to:

- (a) a fine in the amount specified in Rule 1606; and
- (b) a revocation, suspension or conditions on use of the firm's trust account if the firm fails to cooperate within 90 days of a written notice of non-compliance of the Executive Director.

(4) A firm that fails to comply with Rules 907 or 908 may be subject to:

- (a) a compliance fine in the amount specified in Schedule 1 if the firm fails to cooperate within 60 days following written notice of non-compliance of the Executive Director;
- (b) remedial orders to address deficiencies in practice management systems, including but not limited to, the creation of policies or systems and completing training or continuing professional development;
- (c) a revocation, suspension or conditions on use of the firm's trust account if the firm fails to cooperate within 90 days of a written notice of non-compliance of the Executive Director; and
- (d) disciplinary measures in accordance with Part 11 of these Rules.

## PART 10

### Alternative Legal Services Providers

#### Definitions and Interpretation

**1001** For the purposes of clause 10(p.1) and subsection 30(3) of the Act, “legal information” means the provision of legal information of a general nature about the law and legal procedures to members of the public.

#### Exemptions from the Prohibition Against the Unauthorized Practice of Law

**1002(1)** Subject to subrule (2), for the purposes of clause 10(k.1) and clause 31(i) of the Act:

- (a) the following persons are exempt from the prohibition against the unauthorized practice of law in section 30 of the Act insofar as they are carrying out the functions mentioned in clauses (i) to (xiii):
  - (i) a person serving in a neutral capacity as a mediator or conciliator;
  - (ii) a person participating in labour negotiations, arbitrations, conciliations or proceedings respecting collective bargaining rights or agreements;
  - (iii) a person exercising an adjudicative function pursuant to statutory authority;
  - (iv) a person acting as a legislative lobbyist;
  - (v) a public officer acting within the scope of the person's authority as a public officer;
  - (vi) a person employed by or currently funded through a service agreement or otherwise demonstrably accountable to the government to act as a lay representative before administrative agencies or tribunals;
  - (vii) a notary public exercising the powers conferred on the notary public by law;
  - (viii) a person who delivers courtworker services to Aboriginal people through an Aboriginal delivery agency that has contracted with the Government of Saskatchewan or the Government of Canada to deliver courtworker services as part of the Aboriginal Courtworker Program;
  - (ix) a person authorized to practice law in accordance with any provincial or federal statute;
  - (x) an officer or employee of an incorporated or unincorporated organization preparing a document for the use of the organization or for an action or matter to which the organization is a party;
  - (xi) a university law student in respect of services permitted to be provided by that student in accordance with the Rules; and
  - (xii) an individual who is representing a person in an administrative adjudicative proceeding if the administrative tribunal determines that the individual would be of assistance to the person and the tribunal;
  - (xiii) an individual who is appearing in a court as an agent pursuant to *The Small Claims Act, 2016*, *The Summary Offences Procedure Act, 1990*, or the *Criminal Code of Canada*, provided that they are unpaid as required by clause 30(2) of the Act.
- (b) subject to the following, the Executive Director or the Executive Director's designate may provisionally allow any person not otherwise authorized to provide legal services to do so

on a temporary basis, subject to any conditions and restrictions that the Executive Director considers appropriate:

- (i) the Benchers shall review the provisional authorization given by the Executive Director at their earliest opportunity;
- (ii) the Benchers may:
  - (A) confirm the provisional authorization of the Executive Director, subject to any conditions and restrictions that the Benchers consider appropriate, in which case the temporary authorization is deemed to be approved;
  - (B) refuse to confirm the decision of the Executive Director.

(2) Subrule (1)(a)(xii) and (b) do not exempt the following persons from the prohibition against unauthorized practice:

- (a) a former member who has been disbarred and has not been reinstated;
- (b) a member who is under suspension for any reason;
- (c) a person who has been denied admission on the basis that the person is not suitable to practice, as defined in Part 7 or that admission would otherwise be inimical to the best interests of the public;
- (d) a person against whom an injunction has been issued pursuant to section 32 of the Act during the time that the injunction is in effect; or
- (e) a person who charges a fee for the service provided pursuant to subrule (1)(a)(xii), unless explicitly authorized to do so by the governing legislation of the tribunal.

[Rule 1002(1)(a) amended and (xiii) added; 1002(2)(e) amended, February 26, 2021]

[Rule 1002(1)(a)(vi) amended, December 3, 2021]

## PART 11

### Professional Responsibility

#### A. Definitions

##### Definitions

**1101** In this Part:

**“competence”** means bringing adequate skill and knowledge to the practice of law including the management of a practice, as more particularly set out in Chapter 3 of the Code;

**“complainant”** means a person who has made a complaint about a member to the Society;

**“complaint”** includes:

- (a) a complaint made by a complainant pursuant to clause 40(1)(a) or (c) of the Act; and
- (b) an allegation of conduct by a member as described in clause 40(1)(b) or (d) of the Act;

**“Designated Complaints Counsel”** means a person designated by the Benchers who has the same investigative powers as Professional Responsibility Counsel, to review the conduct of members where Professional Responsibility Counsel is in a conflict of interest;

**“Designated Representative”** means a member appointed by the firm to act as liaison with the Society pursuant to Part 9 of these Rules;

**“Hearing Committee Roster”** means the pool of persons eligible to be appointed to a Hearing Committee pursuant to Rule 1118;

**“Discipline Counsel”** means the individual assigned to prosecute a Formal Complaint;

**“Formal Complaint”** means the document outlining the allegations against a member of conduct unbecoming served pursuant to subrule 1110(4);

**“Hearing Administrator”** means a person appointed by the Benchers to:

- (a) assist the Benchers in the creation and maintenance of the Hearing Committee Roster;
- (b) develop and deploy programming to train the members of the Hearing Committee Roster including programming needed to maintain necessary competencies over time;
- (c) verify that the members of the Hearing Committee Roster have completed the required training programs or, in exceptional circumstances, verify that a member of the Hearing Committee Roster has obtained appropriate training elsewhere or is appropriately trained by way of practical experience;
- (d) manage the appointment of Hearing Committee Roster members to all Hearing Committees;
- (e) administer the case management process on all discipline matters set for hearing with a view to expediting the hearing process;
- (f) within the case management process, create a forum for settlement discussion between the parties;

(5) Professional Responsibility Counsel shall advise the complainant in writing of the Chairperson's decision pursuant to subrule (1) but shall not deliver to the complainant a copy of the Practice Advisor's Report pursuant to subrule (1)(b) or the Chairperson's request pursuant to subrule (1)(c).

#### **Confidentiality of Practice Advisor Reports**

**1109** Any report of a Practice Advisor shall not to be used as evidence in any civil proceeding.

### **D. Discipline**

#### **Review by Conduct Investigation Committee**

**1110(1)** The Conduct Investigation Committee:

- (a) shall review, investigate and consider any complaint matter referred to it by Professional Responsibility Counsel, the Chairperson of the Competency Committee, the Ethics Committee or the Complainants' Review Committee;
- (b) may review, investigate and consider any conduct of a member that may constitute conduct unbecoming, whether or not it formed the substance of a complaint or the substance of the referral to the Conduct Investigation Committee; and
- (c) may direct Professional Responsibility Counsel to complete whatever further inquiries and investigations it considers desirable before concluding its review, investigation and consideration of a complaint matter.

(2) Upon completion of the review, investigation and consideration of a complaint matter referred to it along with any supporting materials and recommendations, the Conduct Investigation Committee shall make a motion mentioned in subrule (3) in relation to the matter under consideration and, where such motion is pursuant to subrule (3)(e) convey a report of that motion to the Hearing Administrator.

(3) The motions that may be made by the Conduct Investigation Committee mentioned in subrule (2) are to:

- (a) direct that no further action be taken, if it is of the opinion that the complaint does not constitute conduct unbecoming;
- (b) issue a formal caution, providing advice to the member in relation to the member's conduct;
- (c) invite the member under investigation to meet with a Conduct Review Committee pursuant to Rule 1113;
- (d) refer the complaint to the Ethics Committee or the Chairperson of the Competency Committee;
- (e) direct the Hearing Administrator to appoint a Hearing Committee pursuant to Rule 1118, to hear and determine a Formal Complaint respecting the allegations that the Conduct Investigation Committee determines to be appropriate; or
- (f) combine the actions set out in subsections (b)(c)(d) or (e).

(4) The Conduct Investigation Committee or its designate shall advise the member, the Designated Representative of the member's firm and the complainant, in writing, of the action taken pursuant to subrule (3) and if the Conduct Investigation Committee makes a motion pursuant to subrule (3)(e), the Society shall serve the member with a copy of the Formal Complaint.

[Rule 1110(2) and (3)(e) amended, December 3, 2021]

### **Resignation in the Face of Discipline**

**1111**(1) A member may apply to the Conduct Investigation Committee to resign in the face of discipline:

- (a) with consent of Counsel for the Conduct Investigation Committee;
- (b) at any stage of the investigation by a Conduct Investigation Committee prior to service of the Formal Complaint on the member; or
- (c) at any time after the service of the Formal Complaint on the member, prior to the commencement of the hearing.

(2) Resignation in the face of discipline is deemed to be equivalent to disbarment.

(3) In order to make an application to resign, the member must make admissions with respect to the conduct under investigation and enter into an Agreed Statement of Facts.

(4) The Conduct Investigation Committee may hear an application to resign in the face of discipline and may:

- (a) reject the application pending the completion of the discipline process;
- (b) grant the application and accept the member's resignation in the face of discipline, and may impose conditions on the acceptance of same;
- (c) impose conditions including a time period of up to five years during which the member will not apply for reinstatement;
- (d) direct that, upon any application for reinstatement, the Agreed Statement of Facts will be considered;
- (e) prior to any application for reinstatement, require the member to:
  - (i) complete a remedial educational program;
  - (ii) undertake to refrain from practicing in specified areas of law;
  - (iii) obtain one or more of:
    - (A) a psychiatric assessment;
    - (B) a psychological assessment; and
    - (C) an addictions assessment;
  - (iv) obtain one or both of:
    - (A) a medical examination; and
    - (B) a medical opinion respecting the member's capability to practise law;
  - (v) satisfy any other conditions, prior to application for reinstatement, that the Conduct Investigation Committee deems appropriate.

(5) Any application for reinstatement by a member whose application for resignation in the face of discipline was granted pursuant to this Rule shall be made pursuant to Rule 729 of the Rules.

(6) If the Conduct Investigation Committee accepts a resignation in the face of discipline, pursuant to this Rule, the Agreed Statement of Facts shall be published in the same manner and to the same persons as the Notice required by Rule 1137.

- (3) If a Conduct Investigation Committee orders an oral hearing in relation to subrule (1)(b):
- (a) the hearing shall be conducted in private, unless the Committee orders otherwise; and
  - (b) the proceedings shall be recorded by a court reporter and any person may obtain, at the person's expense, a transcript of any part of the hearing that the person was entitled to attend.
- (4) If a Conduct Investigation Committee concludes that a member should be suspended pursuant to section 45 of the Act, the Committee shall promptly advise:
- (a) the member and the Designated Representative of the member's firm in writing that the member is suspended and the reasons for it, and that the member has the right to request a review of the suspension pursuant to Rule 1123; and
  - (b) the Deputy Minister of Justice pursuant to subsection 54(1) of the Act.

### **Review of Interim Suspension**

**1123(1)** A member who is suspended from practice pursuant to this Rule may, at any time during the period of suspension, by notice in writing to the Hearing Administrator, request a review of the suspension.

(2) On receipt of a request pursuant to subrule (3), the Hearing Administrator shall appoint up to three Benchers as a Review Panel to conduct a review hearing.

(3) The Review Panel shall consider:

- (a) the record of materials before the Conduct Investigation Committee and its reasons;
- (b) any additional information as they see fit; and
- (c) any arguments from the member and Discipline Counsel as they see fit regarding the suspension.

(4) A review hearing shall be commenced as soon as practicable and, in any event, not later than 7 days after the date on which the request was received by the Hearing Administrator, unless the member consents to a longer time.

(5) No Bencher who was one of the following members shall participate as a panelist in a review pursuant to this Rule:

- (a) a member of the Conduct Investigation Committee that suspended the member pursuant to section 45 of the Act;
- (b) a member of a Conduct Review Committee that reviewed the matter; or
- (c) a member of a Complainants' Review Committee that reviewed the matter.

(6) A review of the suspension pursuant to this Rule shall be conducted in private, unless the Review Panel orders otherwise.

(7) All proceedings at a review pursuant to this Rule shall be recorded by a court reporter and any person may obtain, at the person's expense, a transcript of any part of the hearing that the person was entitled to attend.

(8) The Review Panel appointed pursuant to subrule (2) shall determine the practice and procedure to be followed at the hearing.

(9) The Review Panel shall inform the member of the decision and the reason for the decision.

(10) In the absence of a material change in circumstances, the decision of the Review Panel shall be final.

(11) Where a material change in circumstances is alleged, a new Review Panel shall be appointed to:

- (a) consider the prior decision of the Review Panel;
- (b) hear evidence in relation to the alleged material change in circumstances; and
- (c) determine whether a modification of the prior decision of the Review Panel is appropriate.

[Rule 1123(1), (2) and (4) amended, December 3, 2021]

### **Fixing a Date for Hearing**

**1124**(1) The Hearing Administrator shall, in consultation with all participants, fix the date, time and place of the hearing.

(2) Discipline Counsel shall notify the member, the Designated Representative of the member's firm and the complainant, in writing, of the date, time and place of the hearing.

(3) The Society shall publish the date, time and place of the hearing on the Society website.

[Rule 1124(1) amended, June 25, 2021]

### **Disclosure of Evidence**

**1125**(1) As soon as practicable after a Formal Complaint is served, Discipline Counsel shall disclose to the member a copy of all relevant documents in the possession of the Society or under its control or power, except to the extent that the documents are privileged.

(2) Not less than two weeks before the date set for the commencement of a hearing before the Hearing Committee, the member and Discipline Counsel shall provide to each other the following:

- (a) the names of each of the witnesses that the party intends to call to give evidence at the hearing;
- (b) copies of any written statements, or where no written statements exist, a summary of the evidence that the party expects will be given by that witness;
- (c) if a witness will be called to give expert evidence, a summary of the qualifications of that witness; and
- (d) copies of all documents that the party intends to introduce into evidence at the hearing unless those documents have already been provided pursuant to subrule (1).

(3) The Hearing Committee appointed to hear the Formal Complaint may, if it determines that Discipline Counsel has not complied with subrule (1) or (2), extend the time for making full disclosure and make any other order it considers necessary for the effective conduct of the hearing.

(4) A member may, at any time before the hearing commences, apply for disclosure of the circumstances of the alleged misconduct.

(5) An application pursuant to subrule (4) shall be made:

- (a) to the Chairperson of the Hearing Committee that has been appointed to hear the Formal Complaint; and
- (b) in writing or, with the approval of the Chairperson of the Hearing Committee, in person or by telephone.

(b) interviews with the member's staff.

(4) Members shall cooperate with the person carrying out the practice review authorized by this Rule and comply with all reasonable requests and directions, including, without limitation, successfully completing the practice management course, or any comparable or successor course.

(4.1) The Executive Director may, upon application in prescribed form, exempt any member from completing the practice management course, in whole or in part.

(5) A review under this Rule may be conducted whether or not a complaint has been made against a member.

(6) Any report arising from a review conducted pursuant to this Rule:

(a) shall be provided to the Executive Director; and

(b) unless otherwise ordered by the Competency Committee, shall not be disclosed except for the purpose of complying with the objects of the Act.

[Rule 1534(4) amended; Rule 1534(4.1) added, December 3, 2021]

### **Person Designated to Make a Demand**

**1535** The person designated by the Benchers to make a demand pursuant to subsection 63(1) of the Act is the Executive Director.

### **Contents of Service of a Demand**

**1536** A demand pursuant to subsection 63(1) of the Act shall:

(a) be in writing and signed by the Executive Director;

(b) state:

(i) the nature of the investigation in respect of which the demand is made;

(ii) which categories of the member's records or other property are to be produced;

(iii) the time by which and the person to whom the member's records or other property are to be produced; and

(iv) the text outlining sections 60 and 63 of the Act; and

(c) be given personally to the member or served on the member in accordance with section 85 of the Act.

### **Duty to Preserve Confidentiality**

**1537** A person who, in the course of acting pursuant to subsection 63(4) of the Act or pursuant to Rule 1533 becomes privy to information, files or records that are confidential or are subject to solicitor and client privilege, has the same obligation respecting the disclosure of that information as the member from whom the information, files or records were obtained.

## **N. Bankruptcy of a Member**

### **Duty to Report Bankruptcy to the Society**

**1538** A member who is the subject of bankruptcy proceedings shall immediately:

(a) notify the Executive Director in writing; and

- (b) provide to the Executive Director such information and documents in the member's possession or control relating to the bankruptcy proceedings that the Executive Director reasonably requests.

### **Practice Conditions**

**1539** With respect to a member who is the subject of bankruptcy proceedings, the Executive Director may:

- (a) impose any practice conditions that are determined to be appropriate in the circumstances, including but not limited to restrictions on access to trust accounts;
- (b) in cases where the Executive Director has reason to believe that the bankruptcy proceedings are a result of conduct unbecoming, refer the matter to Professional Responsibility Counsel, in accordance with clause 40(1)(b) of the Act; or
- (c) in cases where the Executive Director has reason to believe that the member's competency may be a factor in the bankruptcy proceedings, refer the matter to Professional Responsibility Counsel, in accordance with clause 40(1)(d) of the Act.

### **Notification to the Membership**

**1540(1)** There will be no notification to the membership that a member has become the subject of bankruptcy proceedings unless the Chairperson of the Competency Committee is of the opinion that there is a significant reason to do so.

(2) If the Chairperson mentioned in subrule (1) forms the opinion that there is a significant reason for notification, the Chairperson shall direct the Executive Director to promptly notify the membership of:

- (a) the identity of the member who becomes the subject of bankruptcy proceedings;
- (b) any practice conditions imposed on the member pursuant to Rule 1539; and
- (c) the identity of a member who has ceased to be the subject of bankruptcy proceedings, where that member's identity was published under clause (a).

## **O. Client Identification and Verification Requirements**

### **Requirement to Identify Client**

**1541(1)** Subject to subrule (3), a member who is retained by a client to provide legal services must comply with the requirements of this Rule in keeping with the member's obligation to know the member's client, understand the client's financial dealings in relation to the retainer with the client and manage any risks arising from the professional business relationship with the client.

(2) A member's responsibilities under this Rule may be fulfilled by any lawyer, associate or employee of the member's firm, wherever located.

(3) Rules 1542 through 1549 do not apply to:

- (a) a member when the member provides legal services or engages in or gives instructions in respect of any of the activities described in Rule 1543 on behalf of the member's employer;
- (b) a lawyer:
  - (i) who is engaged as an agent by the member for a client to provide legal services to the client; or
  - (ii) to whom a matter for the provision of legal services is referred by the member for a client, when the client's lawyer has complied with Rules 1542 through 1549; or

- (c) a member providing legal services as part of a duty counsel program sponsored by a non-profit organization, except where the member engages in or gives instructions in respect of the receiving, paying or transferring of funds other than an electronic funds transfer.

#### **Information Required to be Recorded**

**1542(1)** A member who is retained by a client as described in subrule 1541(1) must obtain and record, with the applicable date, the following information:

- (a) for individuals:
  - (i) the client's full name;
  - (ii) the client's home address and home telephone number;
  - (iii) the client's occupation or occupations; 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 full name, 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 businesses 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.

(2) if the client is acting for or representing a third party, information about the third party as set out in subrules (1)(a) or (b) as applicable.

#### **When Verification of Client Identity is Required**

**1543** Subject to Rule 1544, Rule 1545 applies where a member who has been retained by a client to provide legal services engages in or gives instructions in respect of the receiving, paying or transferring of funds.

#### **Exemptions Regarding Certain Funds**

**1544** Rule 1545 does not apply:

- (a) where the client is a financial institution, public body or reporting issuer;
- (b) in respect of funds:
  - (i) paid by or to a financial institution, public body or a reporting issuer;
  - (ii) received by a member from the trust account of another member;
  - (iii) received from a peace officer, law enforcement agency or other public official acting in an official capacity;
  - (iv) paid or received to pay a fine, penalty or bail; or
  - (v) paid or received for professional fees, disbursements or expenses.
- (c) to an electronic funds transfer.

### **Requirement to Verify Client Identity**

**1545(1)** When a member is engaged in or gives instructions in respect of any of the activities described in Rule 1543, including non-face-to-face transactions, the member must:

- (a) obtain from the client and record, with the applicable date, information about the source of funds described in Rule 1543; and
- (b) verify the identity of the client, including the individuals described in subrule 1542(1)(b)(iv), and, where appropriate, the third party, using documents, data or information described in subrule (6).

### **Use of an Agent**

(2) A member may rely on an agent to obtain the information described in subrule (6) to verify the identity of an individual client, third party or individual described in subrule 1542(1)(b)(iv) provided the lawyer and the agent have an agreement or arrangement in writing for this purpose as described in subrule (4).

(3) Notwithstanding subrule (2), where an individual client, third party or individual described in paragraph 1542(1)(b)(iv) is not physically present in Canada, a member must rely on an agent to obtain the information described in subrule (4) to verify the person's identity provided the lawyer and the agent have an agreement or arrangement in writing for this purpose as described in subrule (4).

### **Agreement for Use of Agent**

(4) A member who enters into an agreement or arrangement referred to in subrule (2) or (3) must:

- (a) obtain from the agent the information obtained by the agent under that agreement or arrangement; and
- (b) satisfy themselves that the information is valid and current, and that the agent verified identity in accordance with subrule (6).

(5) A member may rely on the agent's previous verification of an individual client, third party or an individual described in subrule 1542(1)(b)(iv) if the agent was, at the time the agent verified the identity:

- (a) acting in the agent's own capacity, whether or not the agent was required to verify identity under this Rule; or
- (b) acting as an agent under an agreement or arrangement in writing, entered into with another lawyer who is required to verify identity under this Rule, for the purpose of verifying identity under subrule (6).

### **Documents and Information for Verification**

(6) For the purposes of subrule (1)(b), the client's identity must be verified by referring to the following documents, which must be valid, original and current, or the following information, which must be valid and current, and which must not include an electronic image of a document:

- (a) if the client or third party is an individual:
  - (i) an identification document containing the individual's name and photograph that is issued by the federal government, a provincial or territorial government or a foreign government, other than a municipal government, that is used in the presence of the individual to verify that the name and photograph are those of the individual;

- (ii) information that is in the individual's credit file if that file is located in Canada and has been in existence for at least three years that is used to verify that the name, address and date of birth in the credit file are those of the individual;
- (iii) any two of the following with respect to the individual:
  - (A) information from a reliable source that contains the individual's name and address that is used to verify that the name and address are those of the individual;
  - (B) information from a reliable source that contains the individual's name and date of birth that is used to verify that the name and date of birth are those of the individual, or
  - (C) information that contains the individual's name and confirms that the person has a deposit account or a credit card or other loan amount with a financial institution that is used to verify that information.
- (b) for the purposes of subrules (6)(a)(iii)(A) to (C), the information referred to must be from different sources, and the individual, member and agent cannot be a source;
- (c) to verify the identity of an individual who is under 12 years of age, the member must verify the identity of one of the individual's parents or guardians;
- (d) to verify the identity of an individual who is at least 12 years of age but not more than 15 years of age, the lawyer may refer to information under clause (6)(a)(iii)(A) that contains the name and address of one of the individual's parents or guardians and verify that the address is that of the individual;
- (e) if the client or third party is an organization such as a corporation or society that is created or registered pursuant to legislative authority, a written confirmation from a government registry as to the existence, name and address of the organization, including the names of its directors, where applicable, such as:
  - (i) a certificate of corporate status issued by a public body;
  - (ii) a copy obtained from a public body of a record that the organization is required to file annually under applicable legislation; or
  - (iii) a copy of a similar record obtained from a public body that confirms the organization's existence; and
- (f) if the client or third party is an organization, other than a corporation or society, that is not registered in any government registry, such as a trust or partnership, a copy of the organization's constituting documents, such as a trust or partnership agreement, articles of association, or any other similar record that confirms its existence as an organization.

#### **Requirement to Identify Directors, Shareholders and Owners**

(7) When a member is engaged in or gives instructions in respect of any of the activities in Rule 1543 for a client or third party that is an organization referred to in subrule (6)(e) or (f), the member must:

- (a) obtain and record, with the applicable date, the names of all directors of the organization, other than an organization that is a securities dealer; and
- (b) make reasonable efforts to obtain, and if obtained, record with the applicable date:
  - (i) the names and addresses of all persons who own, directly or indirectly, 25 per cent or more of the organization or the shares of the organization;

- (ii) the names and addresses of all trustees and all known beneficiaries and settlors of the trust; and
- (iii) in all cases, information establishing the ownership, control and structure of the organization.

(8) A member must take reasonable measures to confirm the accuracy of the information obtained under subrule (7).

(9) A member must keep a record, with the applicable date, that sets out the information obtained, and the measures taken to confirm the accuracy of that information.

(10) If a member is not able to obtain the information referred to in subrule (7) or to confirm the accuracy of that information in accordance with subrule (8), the member must:

- (a) take reasonable measures to ascertain the identity of the most senior managing officer of the organization;
- (b) determine whether the following are consistent with the purpose of the retainer and the information obtained about the client as required by this Rule:
  - (i) the client's information in respect of its activities;
  - (ii) the client's information in respect of the source of the funds described in Rule 1543; and
  - (iii) the client's instructions in respect of the transaction.
- (c) assess whether there is a risk that the member may be assisting in or encouraging fraud or other illegal conduct; and
- (d) keep a record, with the applicable date, of the results of the determination and assessment under subrules (b) and (c).

#### **Timing of Verification for Individuals**

(11) Upon engaging in or giving instructions in respect of any of the activities described in Rule 1543, a member must verify the identity of:

- (a) a client who is an individual; and
- (b) the individual authorized to provide and give instructions on behalf of an organization with respect to the matter for which the lawyer is retained.

(12) Where a member has verified the identity of an individual, the member is not required to subsequently verify that same identity unless the member has reason to believe the information, or the accuracy of it, has changed.

#### **Timing of Verification for Organizations**

(13) A member must verify the identity of a client that is an organization upon engaging in or giving instructions in respect of any of the activities described in Rule 1543, but in any event no later than 30 days thereafter.

(14) Where the member has verified the identity of a client that is an organization and obtained information pursuant to subrule (7), the member is not required to subsequently verify that identity or obtain that information, unless the member has reason to believe the information, or the accuracy of it, has changed.

**Recordkeeping and Retention**

**1546**(1) A member must obtain and retain a copy of every document used to verify the identity of any individual or organization for the purposes of subrule 1545(1).

(2) The documents referred to in subrule (1) may be kept in a machine-readable or electronic form, if a readable paper copy can be readily produced from it.

(3) A member must retain a record of the information with the applicable date and any documents obtained for the purposes of Rule 1542 and subrule 1545(3) and copies of all documents received for the purposes of subrule 1545(1) for the longer of:

- (a) the duration of the lawyer and client relationship and for as long as is necessary for the purpose of providing service to the client; and
- (b) a period of at least six years following completion of the work for which the member was retained.

**Application**

**1547** Rules 1541 through 1546 do not apply to matters in respect of which a member was retained before this Rule comes into force but they do apply to all matters for which the member is retained after that time regardless of whether the client is a new or existing client.

**Criminal Activity, Duty to Withdraw at Time of Taking Information**

**1548** (1) If, in the course of obtaining the information and taking the steps required in Rule 1542 and subrules 1545(1) or (3), a member knows or ought to know that the member is, or would be assisting a client in fraud or other illegal conduct, the member must withdraw from representation of the client.

(2) This section applies to all matters, including new matters for existing clients, for which a member is retained after this Rule comes into force.

**Monitoring**

**1549** During a retainer with a client in which the member is engaged in or gives instructions in respect of any of the activities described in Rule 1543, the member must:

- (a) monitor on a periodic basis the professional business relationship with the client for the purposes of:
  - (i) determining whether the following are consistent with the purpose of the retainer and the information obtained about the client as required by this Rule:
    - (A) the client's information in respect of the client's activities;
    - (B) the client's information in respect of the source of the funds described in Rule 1543; and
    - (C) the client's instructions in respect of transactions.
  - (ii) assessing whether there is a risk that the member may be assisting in or encouraging fraud or other illegal conduct; and
- (b) keep a record, with the applicable date, of the measures taken and the information obtained with respect to the requirements of subrule (a) above.

**Criminal Activity, Duty to Withdraw**

**1550**(1) If, while retained by a client, a member knows or ought to know that the member is or would be assisting the client in fraud or other illegal conduct, the member must withdraw from representation of the client.

(2) This Rule applies to all matters for which a member was retained before this Rule comes into force and to all matters for which the member is retained after that time.

## **P. Withdrawal from Practice**

### **Duties of Firms and Members**

**1551**(1) A firm shall close all trust accounts within 90 days after withdrawing from or winding up a practice, unless written consent from the Society is obtained.

(2) Within 90 days after withdrawing from the practice of law in Saskatchewan, a member or former member must:

- (a) confirm to the Executive Director in writing that all trust accounts have been closed in accordance with Rule 2301(2)(b); and
- (b) provide a letter from each bank in which a trust account was located stating that the trust account is closed.