



IMMIGRATION CONSULTANTS OF CANADA REGULATORY COUNCIL

CLIENT FILE MANAGEMENT REGULATION

December 2012

Client File Management Regulation

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Section 1 PURPOSE

The purpose of managing Client Files is to ensure that Members manage Client matters in an effective and timely manner. In addition, maintaining Client Files helps ensure Client Property is kept safe and distinguished from Member's Property.

Section 2 DEFINITIONS

In this Regulation:

- a. "Active File" means a Client File that is not completed and closed, pursuant to Section 7(i).
- b. "Actual File Destruction Date" means the date a Client File is destroyed.
- c. "Agent" means a person or company who:
 - i. does not provide immigration advice for a fee in contravention of *Immigration and Refugee Protection Act (IRPA)*;
 - ii. represents an ICCRC member in furtherance of the member's practice;
 - iii. solicits or facilitates business in connection with the ICCRC member's practice;
 - iv. is registered, or required to be registered, as an Agent pursuant to ICCRC's *By-law*; and for greater certainty, "Agent" does not include an individual who merely refers a Client to a member but does not otherwise take any part in a proceeding or application, or potential proceeding or application, under the IRPA.
- d. "Authorized immigration representative" means an individual who can offer immigration advice and / or service for a fee. Authorized immigration representatives include Regulated Canadian Immigration Consultants of the Council, lawyers and paralegals who are members in good standing of a Canadian provincial or territorial law society, and notaries who are in good standing of the *Chambre des notaires du Québec*.
- e. "By-law" means the by-law of the Council.
- f. "Client" means a person whose interests the Member undertakes to advance, for a fee or other consideration, or *Pro bono*, regarding a proceeding or application, or potential proceeding or application, under the *Immigration and Refugee Protection Act*. In cases pertaining to Labour Market Opinions, some Provincial Nominee Program applications, or Arranged Employment Opinions, Client means the entity or person whose interests the Member undertakes to advance, for a fee or other consideration, or *Pro bono*, regarding a proceeding or application, or potential proceeding or application.
- g. "Client File" means the physical paper folder containing the physical documents and / or the electronic folder or directory containing the electronic files, data or information related to the Initial Consultation Agreement and / or the Retainer Agreement for a particular Client (also referred to as "File" in this Regulation). A Client File contains Client Records, Client Property and Member Property.

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- h. “Client Property” means original documents and documents prepared for the Client’s benefit which the Member has been retained by the Client to prepare. Client Property includes, but is not limited to, all original documentation belonging to the Client; all documents, information, and data provided to the Member, or to the Member’s Agent, by the Client, or his or her Designate, prior to or after the signing of the Retainer Agreement; the Retainer Agreement; the Initial Consultation Agreement; documents produced by the government or any other third party (e.g., letters) in connection with the Retainer Agreement; and all documents or other property the Member was retained to prepare in connection with the Retainer Agreement.
- i. “Client Records” mean documents that provide evidence of activities performed, events occurred, results achieved, or statements made as a result of the Initial Consultation Agreement and / or the Retainer Agreement.
- j. “Closed File” means a Client File that is completed, pursuant to Section 7(i).
- k. “Council” means the Immigration Consultants of Canada Regulatory Council/Conseil de réglementation des consultants en immigration du Canada.
- l. “Designate” means an individual who has been given authority, in writing, by the Client to act on his or her behalf.
- m. “File Closing Date” means the date a Client File is completed, pursuant to Section 7(i).
- n. “Initial Consultation Agreement” means a Client assessment and / or advice service agreement between a Member and his or her Client, or the Client’s Designate, which provides a written record of the purpose, fee, and date of said advice, and which is signed by both parties. A written Initial Consultation Agreement is only required when a consultation is given for a fee.
- o. “Member” means any individual who is admitted as a member of the Council in accordance with the *By-law*. A Member is a Regulated Canadian Immigration Consultant (RCIC).
- p. “Member Property” means the documents a Member has prepared for his / her own benefit. A Member must keep such documents as part of the Client File (e.g., original correspondence from the Client, or his or her Designate; instructions from the Client, or his or her Designate; copies of correspondence sent to the Client, or his or her Designate; working notes and summaries; inter-office memoranda; time entries and logs; Client Account records; notes and other documents prepared for the Member’s own benefit or protection, all documents or other property the Member was retained to prepare in connection with the Retainer Agreement, etc.).
- q. “Projected File Destruction Date” means the established date upon which the Client File may be destroyed.
- r. “*Pro bono*” means immigration service or advice that is donated to or free for the Client.
- s. “Retainer Agreement” means the contract between the Member and the Client, or his or her Designate, that sets out the terms of the business arrangement between them.

Section 3 INTERPRETATION

If there should arise any conflict between this Regulation and any of the Council's *By-law*, the Council's *By-law* will prevail.

Section 4 EXPECTATIONS

- i. A Member engaged in *Pro bono* service must comply with this Regulation.
- ii. Every Member of the Council must maintain accurate and up-to-date Client Records for each Client with whom the Member has signed an Initial Consultation Agreement and / or Retainer Agreement.
- iii. A Member performing any function on a Retainer Agreement signed by another Authorized immigration representative must independently maintain accurate and up-to-date Client Records on the matter or contribute to the Authorized immigration representative's shared Client File.
- iv. A Member must employ a clear and coherent system to:
 - a. Open and maintain Active Files;
 - b. Label and identify Client Property;
 - c. Store and easily retrieve Active Files and Closed Files;
 - d. Place Client Property in safekeeping; and
 - e. Close, retain, destroy, and dispose of Closed Files.

Section 5 OPENING AND MAINTAINING A CLIENT FILE

- i. A Member must open a File at the time of signing the Retainer Agreement with the Client, or his or her Designate.
- ii. A Member must maintain a Client File that contains at a minimum:
 - a. A copy of the Retainer Agreement and a copy of all other relevant agreements, such as but not limited to the Initial Consultation Agreement, and any Joint Retainer Agreement;
 - b. Copies of all supporting documents to the immigration application (e.g., police clearance, marriage certificate, academic transcripts, certified translation of documents, etc.);
 - c. Copies of correspondence between / about the Client, or his or her Designate, and the Member;

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- d. Copies of Client Property;
 - e. Copies of billing documents (e.g., invoices, receipts, etc.);
 - f. A copy of the Client's written authorization of Designate, where applicable;
 - g. Copies of draft documents; and
 - h. Copies of immigration applications or submissions on behalf of a Client.
- iii. A Member must ensure each File has a record (paper or electronic) that includes:
- a. A brief description of all Client Property, other than money (which is accounted for through the Detailed Client Account Reconciliation Statement and Client List);
 - b. The date the Client Property was received by the Member and the date the Client Property was returned to the Client, or his or her Designate; and
 - c. Acknowledgement (e.g., signature, email, etc.) by the Client, or his or her Designate, that the returned Client Property was received by the Client or his or her Designate. Where acknowledgement is not received by the Member from the Client the Member must document all efforts made to meet this requirement.
- iv. A Member must store Active Files separately from Closed Files.

Section 6 STORING CLIENT RECORDS

- i. Client Records must be stored in a physically secure manner to maintain Client confidentiality and to protect against damage or loss.
- ii. A Member who has an Agent must ensure the Agent provides him / her with the Client Records within the timeframe specified in the Agent Agreement.

Section 7 CLOSING A CLIENT FILE

- i. A Member must only close a File and consider the File complete when:
 - a. All outstanding fees or refunds have been settled between the Member and the Client, or his or her Designate;
 - b. The Client Property has been returned to the Client, or his or her Designate; and

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- c. The Client, or his or her Designate, has been notified in writing that the Retainer Agreement has been terminated and that all documents and property belonging to the Client has been returned to the Client, or his or her Designate.
 - ii. A Client File must be retained in a secure and accessible location for a minimum of six years after the File has been closed.
 - iii. A Member must maintain a list of Closed Files including the date that the File was closed.
 - iv. Upon closing the Client File, a Member must establish a Projected File Destruction Date and record this date in the File.

Section 8 STORING AND RETURNING CLIENT PROPERTY

- i. A Member must keep Client Property that is in a Member's possession in connection with a File distinguishable from the Member's own property, pursuant to Article 10.3 of the *Code of Professional Ethics*.
- ii. Further to Article 10.5 of the *Code of Professional Ethics*, a Member must, upon request, account for Client Property within fourteen (14) calendar days and deliver it to the Client, or his or her Designate, within thirty (30) calendar days. In situations where the timeframe is deemed unreasonable, the Member must negotiate a reasonable timeframe with the Client, or his or her Designate.
- iii. A Member must return Client Property to the Client, or his or her Designate, in a secure and confidential manner after the Retainer Agreement has been terminated.

Section 9 TRANSFERRING A CLIENT FILE

- i. In the event of withdrawal of service or representation, a Member must return to the Client, or his or her Designate, all Client Property and co-operate with the successor, pursuant to Article 14.5 of the *Code of Professional Ethics*.

Section 10 DESTROYING CLIENT FILES

- i. A Member must maintain a record of destroyed files. When destroying the File, a Member must record at a minimum:
 - a. The Client's name and address;
 - b. A brief description of the service provided;
 - c. The File Closing Date; and

d. The Actual File Destruction Date.

- ii. Further to Section 7(ii), when destroying a Client File, a Member must ensure that Client confidentiality is maintained.

Section 11 CONFIDENTIALITY

- i. Pursuant to Articles 8.1 to 8.4 inclusive of the *Code of Professional Ethics*, a Member must ensure that Client confidentiality is maintained at all times.
- ii. A Member must ensure that the Client's personal information and documentation is protected.