

# PLANNED OR UNPLANNED ABSENCE FROM IMMIGRATION/CITIZENSHIP CONSULTING PRACTICE REGULATION



**icccrc**  
IMMIGRATION CONSULTANTS OF  
CANADA REGULATORY COUNCIL  
**crcic**  
CONSEIL DE RÉGLEMENTATION DES  
CONSULTANTS EN IMMIGRATION DU CANADA

**Version: 2021-001**

**Approved Board of Directors: November 17, 2021**

## Table of Contents

1. AUTHORITY .....	4
2. PURPOSE .....	4
3. DEFINITIONS.....	4
4. EXPECTATIONS.....	6
5. VOLUNTARY CLOSURE OF CONSULTING PRACTICE .....	8
6. SUSPENSION.....	9
7. LEAVE OF ABSENCE OR EXTENDED TRAVEL.....	9
8. RETAINER AGREEMENT.....	9
9. CLIENT PROPERTY AND FILE.....	9
10. AGENTS AGREEMENT.....	10
11. PENALTY FOR BREACH OF REGULATION.....	10

## 1. AUTHORITY

1.1 This Regulation is enacted pursuant to sections 3.1, 5.1 and 17.1 of the By-law.

## 2. PURPOSE

2.1 The purpose of this Regulation is to outline the requirements for Licensees to implement for a Planned or Unplanned Absence from their immigration/citizenship consulting practice so as not to prejudice their Clients.

## 3. DEFINITIONS

3.1 In this Regulation, capitalized terms, unless otherwise defined herein, have the same meaning as they do in the By-law.

3.2 In this Regulation:

- (a) **“Agent Agreement”** means the contract between a Licensee and an Agent that sets out the terms of the business arrangement between them [*contrat avec l’agent*];
- (b) **“Authorized Representative”** means an individual who can offer immigration/citizenship advice and/or service for a fee or other consideration. An Authorized Representative includes a member in good standing with a Canadian provincial or territorial law society (including paralegals within their authorized scope of practice), the Chambre des notaires du Québec or an RCIC [*représentant autorisé*];
- (c) **“Business Continuity Plan”** means a written set of procedures that would enable a Licensee to respond to routine or dramatic events (e.g., natural disasters, extreme weather conditions, prolonged power or communication failure, robbery or criminal activity, civil unrest, terrorist acts, etc.) that would threaten to hinder or stop normal office processes [*plan de continuité des activités*];
- (d) **“Client”** means a person or Entity whose interests the Licensee undertakes to represent, 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* (IRPA) or the *Citizenship Act* [client];
- (e) **“Client Account”** means a savings or chequing account opened by a Licensee at a Financial Institution in which account the Licensee holds funds received from or on behalf of one or more Clients and which is designated in the Licensee’s records as a Client Account [*compte client*];
- (f) **“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. A Client File contains Client Records, Client Property and Licensee Property [*dossier client*];

- (g) **“Client Property”** means original documents and documents prepared for the Client’s benefit which the Licensee 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 Licensee, or to the Licensee’s Agent, by the Client, or their Designate, prior to or after the signing of the Retainer Agreement; the Retainer Agreement; the Initial Consultation Agreement; documents produced by a government or any other third party (e.g. letters) in connection with the Retainer Agreement; and all documents or other property the Licensee was retained to prepare in connection with the Retainer Agreement [*biens du client*];
- (h) **“Client Records”** means 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 [*documents du client*];
- (i) **“Closed File”** means a Client File that is completed, pursuant to section 7.1 of the Client File Management Regulation [*dossier clos*];
- (j) **“Contingency Plan”** means a written set of instructions that details what steps will be taken either by the Licensee, and/or by the Licensee’s Authorized Representative(s), and/or by the Licensee’s Responsible Person, in the event of a Planned or Unplanned Absence, which would allow for the maintenance or winding down of the Licensee’s consulting practice [*plan d’urgence*];
- (k) **“Designation of an Authorized Representative or Responsible Person Form”** means a declaration that a particular individual has agreed to serve as the primary contact for the Client and the Council in the event the Licensee is unable to do so themselves [*formulaire de désignation d’un représentant autorisé ou d’une personne de confiance*];
- (l) **“Entity”** means a company, business, corporation, partnership, institution, or any other organization that has a separately identifiable existence and which is distinguished from individuals [*entité*];
- (m) **“Immigration Agency”** means an Entity that is not owned by an Authorized Representative, or a group of Authorized Representatives [*agence d’immigration*];
- (n) **“Incapacity”** means the Licensee becomes incapable of discharging the usual duties of their immigration/citizenship consulting practice and meeting their obligations under the By-law, Regulations or the Code of Professional Conduct, by reason of physical or mental illness, condition or disorder, following determination of the Fitness to Practice Committee [*incapacité*];
- (o) **“Licensee”** means an RCIC of the Council [*titulaire de permis*];
- (p) **“Licensee Property”** means the documents a Licensee has prepared for their own benefit. A Licensee must keep such documents as part of the Client File (e.g. original correspondence from the Client, or their Designate; instructions from the Client, or their

Designate; copies of correspondence sent to the Client, or their Designate; working notes and summaries; inter-office memoranda; time entries and logs; Client Account records; notes and other documents prepared for the Licensee's own benefit or protection, all documents or other property the Licensee was retained to prepare in connection with the Retainer Agreement, etc.) [*biens du titulaire de permis*];

- (q) **"Missing Person"** means an individual who is assumed to be alive and who has been reported to, or by police, whose whereabouts are unknown despite reasonable efforts having been made to locate the person [*personne disparue*];
- (r) **"Partnership"** means a legal relationship existing between two or more Licensees who share management and profits [*société de personnes*];
- (s) **"Planned or Unplanned Absence"** means voluntary closure of practice, death, Incapacity, suspension or revocation, leave of absence, Missing Person, or extended travel outside of the country in which the Licensee ordinarily resides and/or works [*absence prévue ou imprévue*];
- (t) **"Release Form"** means a declaration of transferring Client Files/Client Property from a Licensee to another Authorized Representative. The Release Form, available on the Council's website, must be retained in the Client File when signed by all relevant parties [*formulaire de décharge*];
- (u) **"Responsible Person"** means an individual over the age of majority who has immediate access to the jurisdiction where the Licensee's office is located. The Responsible Person is not an Authorized Representative and as such, must not perform tasks which may only be performed by an Authorized Representative [*personne de confiance*];
- (v) **"Retainer Agreement"** means the contract between the Licensee and the Client that sets out the terms of the business arrangement between them [*contrat de service professionnel*].

#### 4. EXPECTATIONS

- 4.1 A Licensee who owns an immigration/citizenship consulting practice (e.g., Sole Proprietorship, corporation, etc.) is required to adhere to this Regulation. A Licensee working as an employee for an Immigration Agency, where the agency is not owned by a Licensee or is not a partnership consisting of Licensees and thereby subject to the rules for such enterprises, is required to adhere to this Regulation.
- 4.2 All Licensees are to conduct Client matters in accordance with the Code of Professional Conduct and associated Regulations and policies and ensure that Client interests are protected in the event of a Planned or Unplanned Absence from the consulting practice.
- 4.3 A Licensee working as a salaried employee for another Authorized Representative or as a salaried employee for an Entity, whose job it is to obtain immigration status for potential or existing employees of the Entity, is not required to adhere to this Regulation. However, if the

Licensee represents Clients outside of this employment situation, then they must adhere to this Regulation.

- 4.4 A Licensee shall create and maintain a Contingency Plan to address what will occur with their practice in the event of a Planned or Unplanned Absence. The Contingency Plan must include:
- (a) a system to address emergencies that may arise on Client Files in the event of a Planned or Unplanned Absence from the consulting practice,
  - (b) accurate and up-to-date information on office procedures (e.g. how Client Files are created/stored/closed/destroyed, what reminder systems are used, methods of communicating with Clients, billing processes, etc.),
  - (c) accurate and up-to-date information on the consulting practice (e.g. location of and access to active and closed Client Files, current list of active Clients, bookkeeping records such as current client liability account and client list, important contacts such as accountant and landlord, software and technology used, etc.),
  - (d) steps taken to facilitate the stepping in of the Authorized Representative(s) and/or Responsible Person, as required (e.g. created a checklist for maintaining the operation of the consulting practice, confirmed the financial institution's requirements for allowing an Authorized Representative to access the Client Account, ensured that sufficient funds are available to cover office expenses for a period of time, etc.),
  - (e) a process to appropriately notify the Council in the event of the incapacitation or other medical condition(s) of the Licensee so an appropriate leave of absence from practice may be sought. Such process shall include notifying the Registrar of the contact information (including the name, primary and secondary address, telephone number and e-mail address) of the Authorized Representative and/or Responsible Person including but not limited to including but not limited to, and
  - (f) a process to appropriately notify the Council in the event of the death of the Licensee or the declaration of the Licensee as a Missing Person. Such process shall include notifying the Registrar of the contact information (including the name, primary and secondary address, telephone number and e-mail address) of the Authorized Representative and/or Responsible Person.
- 4.5 A Licensee shall designate one or more Authorized Representative(s) and/or a Responsible Person, as required, who will be the primary contact for the Client and the Council in the event of a Planned or Unplanned Absence.
- 4.6 A Licensee shall provide the Registrar with a Designation of an Authorized Representative or Responsible Person Form (Designation Form), which is dated and signed by both parties, containing the contact information (including the name, primary and secondary address, telephone number and e-mail address) of the Licensee and the appointed Authorized Representative or Responsible Person. The Licensee will confirm this information annually thereafter when submitting their compliance audit on July 1. A separate Designation Form

must be completed with each appointed Authorized Representative and Responsible Person.

- 4.7 A new Licensee shall provide the Registrar with a completed and signed Designation Form, containing the contact information (including the name, primary and secondary address, telephone number and e-mail address) of the Licensee and the appointed Authorized Representative or Responsible Person within ninety (90) calendar days of being registered as an RCIC with the Council. A separate Designation Form must be completed with each appointed Authorized Representative and Responsible Person.
- 4.8 Further to sections 4.6 and 4.7 of this Regulation, the Contingency Plan must be shared with the Authorized Representative(s) and/or Responsible Person prior to signing the Designation Form.
- 4.9 A Licensee shall update the Registrar within fifteen (15) calendar days if there are any changes to the contact information of the Authorized Representative(s) and/or Responsible Person.
- 4.10 A Licensee shall develop a Business Continuity Plan to deal with events that would stop normal office processes as a result of either routine or dramatic events such as natural disasters, extreme weather conditions, prolonged power or communication failure, robbery or criminal activity, civil unrest, terrorist acts, etc.

## **5. VOLUNTARY CLOSURE OF CONSULTING PRACTICE**

- 5.1 Further to sections 4.1(c), 4.1(d) and 4.1(e) of the RCIC Resignation Regulation, a Licensee voluntarily closing their practice shall close all Client Files according to Section 7 of the Client File Management Regulation or designate one or more Authorized Representative(s) who will assume the responsibility of the practice.
- 5.2 A Licensee shall notify the Registrar, at the time of submitting the final resignation statutory declaration, of the name, primary and secondary address, telephone number and e-mail address of the Authorized Representative(s), if applicable.
- 5.3 A Licensee designating one or more Authorized Representative(s) to their Clients to assume further service shall provide a mutually agreed upon commitment in writing, which outlines how the Authorized Representative will take over the Client File(s) and satisfy the outstanding undertaking(s). The Licensee must ensure that the Authorized Representative(s) is (are) competent in the area(s) of immigration/citizenship to take over the Client File(s).
- 5.4 A Licensee must advise the Client to remove or change the Licensee's name promptly in order not to prejudice the Client and provide to the relevant authority the Client's contact information regarding any outstanding matters.
- 5.5 A Licensee must complete a Release Form with the Client prior to transferring the Client File or any Client Property to the Authorized Representative. The Release Form, available on the Council's website, must be retained in the Client File when signed by all relevant parties.



## **6. SUSPENSION**

- 6.1 A Licensee who is suspended by the Council shall designate an Authorized Representative who will assume the responsibility of the practice for the duration of the suspension period.
- 6.2 A Licensee shall comply with the requirements of the Notice of Suspension sent by the Registrar.
- 6.3 A Licensee must complete, and retain a copy of, a Release Form with the Client prior to transferring the Client File or any Client Property to the Authorized Representative. A copy of the completed Release Form will also be provided to the Client and the Authorized Representative receiving the Client File.
- 6.4 A Licensee must promptly notify the relevant authorities, such as but not limited to, IRCC, IRB and relevant Provincial Nominee Program (PNP) office, to remove the Licensee as the Authorized Representative of record on all Client Files.

## **7. LEAVE OF ABSENCE OR EXTENDED TRAVEL**

- 7.1 A Licensee who is on an official leave of absence or travelling outside of the country in which they ordinarily reside and/or work for a period of more than thirty (30) consecutive days, during which the Licensee does not intend to perform the usual duties of their consulting practice, shall designate one or more Authorized Representative(s) who will assume the responsibility of the practice while the Licensee is on leave or travelling. This designation must be clearly communicated to Clients and potential Clients.
- 7.2 Further to section 7.1 of this Regulation, a Licensee must complete and retain a copy of a Release Form with the Client prior to transferring the Client File or any Client Property to the Authorized Representative. A copy of the completed Release Form will also be provided to the Client and the Authorized Representative receiving the Client File.

## **8. RETAINER AGREEMENT**

- 8.1 A Licensee shall include in the Retainer Agreement a clause stating that in the event the Client is unable to contact the Licensee and has reason to believe the Licensee may be dead, incapacitated or otherwise unable to fulfill their duties, the Client should contact the Council.

## **9. CLIENT PROPERTY AND FILE**

- 9.1 A Licensee shall notify the Authorized Representative(s) and/or Responsible Person of the obligations under the Client File Management Regulation.
- 9.2 A Licensee must complete a Release Form with the Client prior to transferring the Client File or any Client Property to the Authorized Representative. In the event of the death, declaration of Missing Person, or incapacity of the Licensee, the designated Authorized Representative or Responsible Person must complete a Release Form with the Client prior

to transferring the Client File or any Client Property, including but not limited to any unearned monies belonging to the Client that are deposited to the Licensee's Client Account.

#### **10. AGENTS AGREEMENT**

10.1 A Licensee who has an Agent shall include in the Agent Agreement the contact information of the Authorized Representative(s) and/or Responsible Person, as required, who will take over the Client Files, how Client Records and/or Client Property will be transferred, how any outstanding fees for services will be paid, and how the Agent Agreement will be terminated, in the event of a Planned or Unplanned Absence from the immigration/citizenship consulting practice.

#### **11. PENALTY FOR BREACH OF REGULATION**

11.1 A Licensee who breaches this Regulation shall be subject to the following penalties:

- (a) For a first offence, written warning with direction to correct deficiency within thirty (30) calendar days.
- (b) For a second offence or subsequent offence, \$100 per incident.
- (c) Failure to correct deficiencies within thirty (30) calendar days or pay fines is subject to suspension and ultimately revocation.